

## City Council Regular Meeting Transcript – 2/4/2016

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[10:25:45 AM]

>> Mayor Adler: Council, we'll go ahead and get started. I apologize for getting started late. We'll begin with the invocation from John Mciver gage of united Christian church. Everyone please rise.

>> Good morning, council. It is a great honor and privilege to be with you this morning. Particularly because not only do I serve a congregation here in Austin on the northside on Parmer and mopac, but also because my family has been long time residents in Austin. My father, les gage, served where you sit now in 1969. My mother, Winnie gage, served on the public school board in the 1970's we've been S business owners here for 75 years and raising your sixth generation of the gage family here in Austin. So it is a great pleasure to be with you and to offer this invocation. So if you would join me in bowing your hearts and setting our intentions this morning. Oh holy one whom I know best relieved in the life and work of Jesus, but whom we may know by many names and no name. We thank you for this day and the many blessings we are receiving already. We thank you for the people with whom we will come into contact. Our family, friends and strangers. We thank you for the ability to use our minds to discern our way forward, to creating a strong and healthy community. We thank you for this community and all who serve it. For those who teach and those who protect. For those who clean and those who repair. For those who work in parks and on roads. For those who plan and who make those plans happen. For activists and artists, for children. For those who heal and those who counsel. For those who govern and those who elect. For all who live to the best example of what it means to be a citizen, we thank you.

[10:27:47 AM]

We pray for all in our community who are homeless, hungry, unemployed or uninsured. We pray for all in our community who are mentally or physically ill. We pray for all in our community who live in violence. For these and all the burdens of our larger community, oh holy one, hear the prayers of our hearts. As this meeting begins this morning, I pray for each person here, give each one clarity of mind, creativity, compassion, due diligence, integrity and a sense of humor. Give them listening ears and thoughtful words. Give them presence of mind and an open heart. And one more thing we pray because we may, oh lord, please bring the sweet rains of deliverance for those who suffer with allergies in this season.

[Laughter]. And let all those of like minds say together, amen. Thank you.

>> Mayor Adler: Sir, thank you. Ms. Gallo, was there something that you wanted to say?

>> Gallo: This morning I would like to recognize the American heart association and the national red -- wear red day. As you can see all of us are wearing red. We are wearing red today to raise awareness about heart disease and stroke. One in every three women in the United States die from heart disease. And all of us are here to promote healthier lifestyles. I don't know that we're going to do an exercise in front of us today. And a significant reduction of heart disease. This hits home for me because the district

10 the city liaisons, Lucy chase, has had open heart surgery. Many of you have also met Susie Stoddard Maggie, and she had open heart surgery at the age of two years old.

[10:29:45 AM]

Susie and her children are long time volunteers for the American heart association and they encourage me and everyone here to find out about their family's heart health history and visit a doctor to see if any of us have the warning signs of heart disease. So thank you for joining with us to support this really wonderful, wonderful organization and the message they share with outside whole community.

[Applause].

>> Mayor Adler: All right. I'm going to go ahead and gavel us to order. It is Thursday, February 4th, 2016. We are in city council chambers at 301 west second street. We have a quorum present. Let's go through and figure out where we are on the matter here. Is Gus Pena here? Mr. Pena? Is Joh Sanchez here? Okay. Is Mr. King here, David? And is trey Salinas here? Okay. We only -- we don't have anything that's pulled byspear's present. On the Chang and corrections, when we're approving the minutes it should read, the council discussion of January 28th, 2016 as opposed to -- not including the regular meeting. Items 4 and 7 recommended by the water and wastewater commission on a 7-0-0-4 vote. Commissioners Penn, Lee, Kellogg and parker absent. Item number 19 is going to be postponed by staff to March 3rd of 2016.

[10:31:47 AM]

That's item number 19. Item number 20 is to authorize negotiation of an interlocal agreement, but not negotiation and execution. Item number 38 I've been added as a sponsor. Item 43 is for fiscal year 2015 to 2016. Not 2016-2017. Item number 48 is being postponed to February 25th. And there will be an ordinance associated with that item. Before we get into our briefing let's see if we can handle the consent. The items that I have being pulled by councilmembers are number 3, pulled by councilmember Gallo. Number 7 pulled by councilmember Zimmerman. Items 9 and 10 are set for a time certain at 6:30 to be pulled from consent. Item number 12 is pulled by Gallo and item 14 pulled by troxclair. 16 is being pulled by a presentation by staff. 19 is being proposed we said earlier to March 3rd. 20 is being pulled by Zimmerman. 21 I'm pulling. 30 is being pulled by Zimmerman. Item number 35 I want to read into the record some late nominations made by organizations, with their organization nomination.

[10:33:42 AM]

The Austin area urban league to the African-American resource advisory commission, drecette Hamilton. The Austin revitalization authority to the African-American resource advisory commission, Mr. Smith. Tam Hawkins to that same commission. And the naacp, national association for the advancement of colored people, to that same commission, Nelson Linder. The rest of the items are as posted. Item number 36, Mr. Casar, is that being pulled for discussion? That's the committee deal? Or was that being postponed? I don't remember how we left that. We postponed it a week.

>> Casar: I said I would follow the will of the group on that. I also know that we have a pretty short agenda it seems today, so if folks want to take some time to talk about it, I'm also happy to leave it on the agenda and we can see if we want to postpone it when it comes up.

>> Mayor Adler: Okay. Let's postpone that and take it off of consent at this point and let's see how the rest of the day goes and see whether we pull it back to talk about or whether we pull it that off. But we're going to pull that right now. Item number 38 is going to be pulled so that it is considered as part of

44 and 45. So the items that I have being pulled off consent agenda item are item 3, 7, 9, 10, 12, 14, 16, 19 -- well, 19 is on, being postponed to March 3rd.

[10:35:47 AM]

20, 21, 30, 36, 38. Any other changes.

>> Mayor, would not also 44 and 45 be pulled in.

>> They're not on the consent agenda. They're lower than the consent agenda.

>> Mayor Adler: We have some speakers before we vote.

>> Zimmerman: I could quickly handle something here. On item number 20 I had pulled that to amend and strike execution. So now that that has been taken out, I'd like to switch to not pull that and be shown voting in favor.

>> Mayor Adler: Okay.

>> Zimmerman: With the change of striking the words execution.

>> Mayor Adler: Okay. So that one is now put back on to the consent agenda. Yes, mayor pro tem?

>> Tovo: Mayor, I just wanted to call my colleagues' attention to fact that I did make a slight change after our work session to item 37, and that was posted yesterday in the revised backup, but I handed it out on the dais. Basically I changed the bit about coming back for the approval. This is the work session, the ae work session agenda. Rather than have the city manager come back and approve the schedule, I think we agreed to just let the city manager's office work with councilmember Gallo and any other relevant parties to schedule those. So the language I've added in there just talks about what our goals were, which was to have three one and a half hour meetings scheduled at a time when we're already going to be present for a different meeting.

>> Mayor Adler: Okay. Any other comments? All right. We have some people to speak on the consent agenda. David king? And then trey Salinas. Actually, I'm sorry, David, since we pulled 21 -- 21 has been pulled.

[10:37:45 AM]

37, Mr. Salinas, do you want to come and talk?

>> Thank you, mayor and council. I only want to speak if this gets to stay on consent. I wanted to make sure it didn't trigger it getting pulled off. Thank you, I'll be brief. Good morning, my name is trey Salinas and I'm here for the coalition for clean, affordable energy, speaking in favor of item 37 today. First we want to thank mayor pro tem for placing the agenda on today's resolution directing the city manager to bring the proposed schedule for council work session related to the Austin energy cost of service and rate review. We applaud the council's willingness to spend a portion of their valuable time becoming familiar with the complex issues that face the council as they consider the recommendations from the impartial hearings examiner. A final schedule has been posted by Austin energy with a decision by June 30th. All we ask is to make sure that's the right date. June 30th may be feasible, it may not. As mayor pro tem stated in the December oversight committee, the council is not required to finalize rates to set the -- to adopt the budget. We know that makes it complicated, but just want that for the record. The council could make a midyear budget amendment. It is important to note that as you embark on this rate case that Austin energy's own research owes shows that rates for the commercial and industrial classes far exceed the city council's affordability goal. Ae has also stated the commercial and industrial classes are paying above their cost of service. So success for many stakeholders will be if the several years of increases for these classes are reversed and there's a move, a serious move to move us back towards the lower 50% of benchmark cities. One of the suggestions respectfully for your work sessions

could be to study the cps model down in San Antonio. We don't just have to look at the competitive market on how rates are done.

[10:39:47 AM]

Cps, a municipally owned utility, which is also a regulated monopoly, has some of the most competitive rates in Texas. All three customer classes in San Antonio are below the lower 50% of benchmark cities in the state, while also continuing to transfer 14% of its revenue to the city of San Antonio's budget. We believe that could be achieved here as well. So please take the appropriate time to get this rate case done right. Again, we know busy you are with all the challenges you face and we sincerely thank you for the time you give this matter and we want to thank the sea staff as well. We may not always be in agreement with some of the things and we won't be in complete agreement during the rate case but we know they are working hard with the constraints they have. Thank you.

>> Mayor Adler: Excuse me, Mr. Salinas. Mr. Zimmerman has a question.

>> Zimmerman: Quick question. Did I hear you say that the San Antonio municipal utility has lower rates and yet they transfer even more to their city general fund?

>> That's correct. All three of the customer classes in San Antonio are below the 50% benchmarks.

>> Zimmerman: Okay, thank you.

>> I'll be happy to submit that information in writing for you.

>> Mayor Adler: Okay. Thank you. Mr. Pena, have you come in? Okay. You're the only speaker here to speak on the items that you had pulled, so you have three minutes to speak on the pulled items that you have pulled. That would be items 11, 12, 13, 14, 15 and 39.

>> Okay. Good morning, mayor, councilmembers. Gus Pena, proud native east austinite and proud united States Marine Corps veteran. I come here representing veterans for proking. We've 6500 strong and growing. You know that two years ago memorial day we talked about the veterans and homelessness. This has to do with the economic development department.

[10:41:42 AM]

First of all, item number 11, we strongly support the funding to go to the African-American cultural heritage center district. It is our great pride that we support our beautiful African-American community, and I think we need to provide more funding for the community. Anyway, we strongly support number 11 and number 12, 13, 14, we strongly support it also. I'm a former board member, recreation center board member of pan am and also we were also a board member of the dove springs recreation center advisory board. We met, if you remember -- I don't know if you remember, councilmember Garza, but we met at the old walgreen's on stassney and pleasant valley. That was our temporary rec center, and we were involved in the negotiations and building vision of the rec center and also the swimming pool. So we have history there. But anyway, I wanted to fully support all these items, 12, 13, 14, parent trained specialists. We need it, especially now that we have -- I say this for the record, we have a strong cartel issue here in Austin that is trying to get the membership of the kids out there. We're not going to let that happen. I don't care if they're looking aing at me right now. I don't care, I'm not scared of them. I would to also say Norma Gonzalez, also thank you to her for her river city youth foundation. They have done a lot for the-community and keeping kids out of trouble and supporting the parents and the kids in school. Mayor, I'll keep it short and brief, but all these items, 11, 12, 13, 14, especially the number 11, economic development issue with African-American cultural heritage district, it's right on target. We need more. And thank you very much for your time. And I'm gone. Thank you.

>> Mayor Adler: Thank you, sir. I want to read into the record Mr. Zimmerman is abstaining from items 5 and 6, also 11 and 13 and 15.

[10:43:45 AM]

Also 22, 23, 24 and 25. Also 29. And also 34.

>> Zimmerman: Thank you, Mr. Mayor, that's correct.

>> Mayor Adler: Is there a motion to approve the consent agenda? Ms. Gallo? Seconded by preliminary. By Mr. Zimmerman. Any discussion? Yes, Ms. Troxclair?

>> Is item 37 pulled?

>> Mayor Adler: No.

>> Troxclair: So I just need to clarify. Mayor pro tem tovo, the electric rate schedule as you have laid it out, would have us finishing after the budget?

>> Tovo: No. The -- so this resolution really just directs the city manager to identify opportunities to -- my thought is two in February, one in March, to have three one and a half hour work sessions. That's the only thing this resolution does. And the resolution as revised also clarifies that those three one and a half hour work sessions should be tacked on to existing meetings, either council oversight committee of Austin energy or council work sessions or council full meetings, so that we're not trying to schedule all of us to have another meeting. I believe Mr. Salinas was just citing a comment I made earlier in terms of the overall schedule, but these do not extend our schedule in any way. They just quickly pack in those three work sessions between, I would assume, here and March.

>> Troxclair: Okay, thank you. Mayor, I would like to be shown no on -- shown voting no on item number 34, abstaining from items number 15, 5, 6, 26, 29 and 35.

>> Mayor Adler: Okay. So noted. Any further discussion? Those in favor of the consent agenda please raise your hand?

[10:45:47 AM]

Those opposed? With the comments noted, the consent agenda passes. Okay. That gets us to the items then that have been pulled. We also have a staff briefing that was set at 10:30 on the personnel matter. Mr. Washington, do you want to give us the briefing on the evaluation deal and that way we can let you go?

>> Thank you, mayor and members of council. Mark Washington. You have an item on the agenda that asks for discussion of the council appointee performance review process. And I had an opportunity to brief the council earlier last year on this item. And you since then we've done some work in terms of reviewing the process. The auditor has conducted in research and based on the auditor's research I've also had some discussions with the mayor and today I want to share with you some of the outcomes of those conversations. The performance management process is a process for those persons being evaluated. It is not just the evaluation, but it is a of progress and having the conversation at some point during the year about formally evaluating performance as well as the recognition or rewarding of performance.

[10:47:45 AM]

But it is a cycle. Often times we only focus on one part of the process, which is the evaluation, but I think the efforts that you will hear today speaks more of a holistic process. Just to provide some background to the process for evaluating appointees, you have four appointees that the council evaluates annually. And these evaluations are the -- the discussion performance evaluation discussions have been held in closed session and then based on the outcome if there's any change in personnel, whether it is compensation or benefits, those actions are taking place in public session. Prior to 2013 the evaluation

or the appraisal part was very informal, was just discussions in closed session without any forms being used. As you may be aware, the process change in 2013 where the evaluations still continued to occur in closed session -- the practice prior to 2013 as I mentioned was still very informal evaluations, were still conducted in closed session. There was no standardized forms or ranking systems to evaluate the appointees. They basically reported on their accomplishments and the council provided feedback that was discussion based. In December of 2013 there was a resolution from council that proposed a more formal process with ratings. I believe all of you have been provided with those forms that rated different areas of performance from one to five with some narrative portion that the council could provide comments on. The previous council, although they established this process using the form, they do not utilize it. So based on discussions that we've had in front of this body as well as some of the other councilmembers, we went back and looked at ways to improve the process.

[10:49:47 AM]

And I believe you should have a draft version of a form that the mayor posted on the message board on January the 6th, 2016, that provides a revised outline that kind of simplifies the form that the last council use. And the mayor did comment that it could be used for discussion purposes, but I believe it is a much more refined form in process. And there are six areas to the evaluation process in the form. One, the first area -- the areas that are highlighted in green are those that have changed from -- or are additions to the current form that was approved in 2013. The first area is a formal self-reporting of accomplishments and outcomes. The second area is similar to the old form in that there's a discussion of key performance areas and competencies, but there are not as many ratings. The council can determine whether or not their appointee either meets, exceeds or does not meet the expectations around those competencies. There is one additional competency that was added, and that is the competency of diversity and inclusion. That is the 11th competency. The third area is a new area to the process, and that is a discussion of audit and reviews that has occurred in the responsibility or the area of the appointee, and those discussions can be held by the council. There is not a rating of that area on the form, but the council could decide if there are important audits or reviews or third-party reports that they would like to have discussion with the appointee. The fourth area is an area that outlines opportunities for development and growth, in which the council and the appointee can identify various strengths and opportunities for improvement.

[10:51:45 AM]

And the fifth area is another new area. It is the performance conclusion. And again, the last form posed a five-point scale, if you will. This does not require any numerical rating. It is simply within three areas. Does the appointee meet expectations, exceeds expectations or does not meet expectations. And then the final area, which is part of the planning, is anticipating issues in key performance areas for the upcoming year. So that's the planning part of the evaluation process. There was questions that after the mayor posted the item on the message board, there was questions or comments about the use of a 360-degree evaluation. And just for the sake of discussion and everyone having the same information, 360-degree feedback tool is used to gain multiple perspectives from -- from persons other than the immediate manager, supervisor, the person providing the evaluation, and in an effort to offer additional perspectives about how someone might perform their job. It is provided from -- it is -- feedback is provided from supervisors, peers, subordinates and the appointee or the person being evaluated themselves. It is an opportunity to learn about what the potentially strengths and weaknesses based on the perceptions of others and receive coaching and feedback. The 360-degree evaluation or tool is typically used for development purposes, and I've provided some information in -- communications that

are sent to the council along with some literature and research that shows that there is much debate about using this kind of tool for evaluation purposes because in many instances it is based on the perception of others who may not be as familiar with the actual work of the person who is being evaluated.

[10:53:45 AM]

And so the city does use the 360-degree evaluation, but we use it for development purposes as part of our executive academy for those managers or executives that are seeking development and trying to get perspectives and assessments for opportunities for growth. Having said that, our recommendation, at least from a staff perspective, would be to decouple any tool that uses a 360-degree evaluation from the appraisal process. Again, I mentioned earlier that there are many people in the human resources field that strongly advise not using the 360-degree tool for decision making purposes regarding personnel actions, but just to use it for development purposes. Based on that, I think you may have seen the proposed timeline for it beginning the evaluation process. If the council did choose to diverge from the forms that was used -- that was approved in 2013, perhaps at some point on the 26th there could be a new form and process adopted for evaluations to begin potentially in the month of March, and I listed a few dates on some of the work sessions for those current executive sessions. And for these appointments, as you know in last year's budget there was approval for funding for market -- implementation for market pay, and we are scheduled to implement the market for all of the -- all employees in the workforce who are covered by the study in August.

[10:55:47 AM]

And the appointees as well were included in terms of assumed funding. So if there were changes in compensation it could be made the same -- at the same time that all other employees who were getting the benefit of the market study are being made. And then the next round of performance evaluation would begin in February 2015, based on plans and discussions that occur during the session. That concludes the briefing.

>> Mayor Adler: Great. Thank you very much. This was something that was set out on the message board at the beginning of January. Thank you for taking us through it. It's a modification of the ordinance that was existing the last council. The council never actually implemented what the ordinance said to do. So we've laid out something here that would tee up the process. Mr. Washington is suggesting that we actually come back with a resolution here in a few weeks to adopt it and then we begin that evaluation process. Questions or discussion? Mayor pro tem?

>> Tovo: I just want to for the record say that as I recall we used those forms to guide our discussion, but no one prefilled them out or filled them out. They shaped the conversation, but did not get filled out in the way that had been contemplated. Which would have made them public record.

>> Mayor Adler: Okay. Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. Thank you for bringing this in and thank you for putting conspicuous page numbers on here. This is very helpful. On page number 7 on the 360-degree evaluation, I want to call attention to the top bullet that says multiple assessments from superiors, peers, subordinates and self.

[10:57:45 AM]

And so I would like to express opposition to this idea. I don't think the self should be included. The whole point of an evaluation is to look outside of the self and look outside of the immediate circle of

peers and people of influence. The whole point of it is to not look at that, but instead back up and look at the city at large and try to say that the superiors here -- you think about it -- are the voters and the taxpayers. So in my view when we talk about our top appointments, our city manager, our auditor, et cetera, when we talk about these high level appointments, the opinion that matters is the community's opinion. And it's complicated to assess that, but that's the only opinion that matters is the opinion of the people paying the taxes and voting. So -- unless I'm reading this incorrectly, I would be opposed to this and I'd rather focus on how we evaluate the community's viewpoint of what's going on with our top hires. That's what I'd like to see happen.

>> In general , it is a practice, when using the 360-degree evaluation, to include a self-assessment. It allows the person who is being evaluated to compare their view of their performance and abilities to the perceptions of others and see if there are gaps to determine whether or not there are opportunities to improve upon, either way. So that's the importance of the self-assessment.

>> Mayor Adler: Further discussion. Ms. Gallo.

>> Gallo: Could you share with me when the existing contracts expire for each of these positions?

>> We don't have contracts for the appointees. You have resolutions for three, an ordinance for the fourth.

[10:59:47 AM]

The municipal -- excuse me -- yes, ordinance for the municipal court clerk, resolutions for the other three that are approved each year. And I don't have the last resolutions that were approved, but it's whenever the -- they're done annually. There are no set times for expirations.

>> Gallo: Well, I'm a little confused, because I thought that there was a time period within which the resolution addressed a renewal of the agreement. Is there not? So maybe you could provide those resolutions to us.

>> We can do that.

>> Gallo: Yeah. Thank you.

>> Kitchen: Excuse me, is there not a contract time period for the city manager?

>> Again -- and I would ask, perhaps, Ann to help in the explanation, but the resolutions approve the pay and benefits for each of the appointees. The terms and conditions of employment. They do not establish a term of employment for which they are to be -- which they can work and when they term expires, and when it has to be approved prior to a certain date. There are no terms, dates, or limits on the appointments. And I will defer to Ann.

>> That's correct. You've explained it right.

>> Is there any ordinance that requires the council to do reviews on these four? What is the basis for our review process?

>> There's not an ordinance that requires it. You do it based on your decision about whether or not it's a good idea.

>> Gallo: Okay. All right. Thank you.

>> Mayor Adler: I would point out that one of the reasons that you do a self-evaluation is not just for the evaluation itself component of the evaluation process, but as part of the more holistic view of learning, and improving, and discussing anything that would come up in that.

[11:01:47 AM]

It's a -- the evaluation is not just a moment in time, it's something as you do with any employee in terms of setting objectives and all that kind of thing. And for that reason, I just point that out because whether or not we did a 360, that self-evaluation is part of the process that's otherwise set out. It gives our

appointee the opportunity to either do that orally or in writing with us, is how the ordinance came from the prior council and was included in what was presented here. May I ask quickly, we have given this to the other appointees --

>> Yes.

>> Mayor Adler: Including the city manager. Did you get any comments back from any of those that are worth noting, other the cityanag?

>> There was some feedback about the concern of the use of the 360 in the performance appraisal process. The ability of people to accurately provide feedback relative to performance, particularly if they're not as familiar with the job performance or the job duties. The concern about subjectivity is, in essence, what was shared.

>> Mayor Adler: Okay. And, manager, I want to give you any opportunity, if you wanted to weigh in or discuss any of these issues as well.

>> Not anything in depth at this time, mayor. Of course, you know that you and I have had a number of conversations in regard to this matter. I certainly respect and understand, and encourage council's evaluation of the city manager, and other appointed officials, as well. We've had conversation about the notion of the applicability of a 360 tool. And particularly where I'm concerned, it's a large organization.

[11:03:45 AM]

And as Mr. Washington has already indicated, I think there's some concern among all of the appointees about the subjective nature of that. It can very well be a viable tool, but we do have the concerns that Mr. Washington outlined. I will have other comments to make, but it's likely that I will put those in writing to the council.

>> Mayor Adler: Okay. Any further discussion on this? Ms. Pool.

>> Pool: I just wanted to thank you, Dr. Washington, for pointing out the 360 assessment is more often targeted for use in a coaching capacity, as opposed to executive performance decision-making. And I thought that was a piece that I had missed in some of the reading that I had done on it previously. When we did the -- making a hiring decision for the auditor, we reached out to professional associations she was involved in, and talked to folks she reported to, and who reported to her. And it was in the framework of a hiring situation, and uniformly, responses were positive. I think those of us who were asking questions recognized there's a line you don't go over in asking. I have a little bit of a background in human resources and recognize that. And I think that the interest in this was simply to, kind of, parallel what we had done previously. And so, again, I appreciate your pointing out the nuances. I think it's important. Thank you.

>> Thank you. And to your point, I think when we were making a hiring decision, we were doing that in the spirit of doing reference checking and background checking on people that we may or may not have been familiar with in terms of their work history.

>> Mayor Adler: Ms. Houston.

>> Houston: Mayor, could you go over the timeline that we are looking at again?

>> Mayor Adler: We had talked about coming back, giving everyone a chance to take a look at this, coming back with a resolution to approve the procedure that we have, because it differs a little bit from the ordinance that would otherwise control, and that wellyset the evaluations for the month of March sequentially, probably going city clerk, city auditor, municipal court clerk, and then doing the city manager last.

11:05:45 AM]

We could do those three in whatever order worked best, but setting those for an executive session so that we could work through those Numbers and get through those in March. And then we would be done in June. We would take action on the pay and benefit issue. And then the next performance review for everybody would be February of the next year beginning in 2017. And we can get back on a yearly evaluation, happening in February.

>> Houston: Few for that. I just wanted -- because the powerpoint, people may have forgotten what the schedule was. So, thank you for saying that so people could hear it.

>> Mayor Adler: Yes. Mr. Casar.

>> Casar: While I think that it's important for us to look back at -- as we do the evaluation, I think the part that I'm particularly interested in is number 6 on page 6 on that conspicuously numbered page, which is talking about the future performance issues and what our expectations are moving forward. As we transitioned into the 10-1 form of government, there was so much going on, and I think that we really needed our staff's support and help getting through that transition. And I know we'll probably be going through years more of transition as we settle into this form of governance. We never really had the time as a group to set expectations for each appointed official. And I think that while it would be important, this process, I look forward more to the next one once we've had that conversation about what it is that the expectations are. I think that I'm happy to say publicly that I am really very pleased with the way that our administrators have helped us get through to this point. I know it was a really challenging time of transition for all of city staff.

[11:07:45 AM]

But next I look forward to, sort of, talking with my colleagues about -- what we expect from those officials, and will appreciate this process as a team to do that. And thank, again, Dr. Washington, for putting this presentation together and lending us your expertise in human resources as we try to figure out how to do this. So, thank you.

>> Mayor Adler: I'm happy that you look at that -- that's one of the additions that we would be making to the process of the past, that item number 6. And item number 6 becomes almost item number 1 in the following year's evaluation. We don't have number 1, because we haven't had the opportunity to set those goals. I think you're right about that. And I would like to see us discuss with the appointees setting, you know, outcome goals and getting -- you know, what are the expectations with respect to affordability, what are the expectations with respect to mobility in the city, in a big kind of way. Ms. Gallo.

>> Gallo: I was just curious -- and thank you for this information. It's great. I was curious when the last evaluations had been done on each of those four positions. That might help determine the order in which we started on the evaluations.

>> As I recall, I think it was around June or August of 2014. But I can confirm that.

>> Gallo: And that would be for all four of them?

>> Yes.

>> Gallo: Okay, okay. They were all done at the same time? Maybe mayor pro tem tovo could help us with that question.

>> Tovo: I think that's about right, but the auditor was hired by this council. She would not have been evaluated in that August 2014.

>> As well as the municipal court clerk, that's correct.

[11:09:47 AM]

But for the last performance evaluations given by the council to appointees occurred in the summer and -- late summer of 2014.

>> Gallo: Thank you.

>> Mayor Adler: Further comment? Ms. Troxclair.

>> Troxclair: The mayor touched on what I was going to ask about, but I wanted to understand if there were measurable goals that had been set for our appointees which we can use to do an evaluation. Do you need me to repeat that?

>> I'm sorry, can you repeat that, please?

>> Troxclair: No problem. I didn't see an outline of measurable goals anywhere. I understand that we can set measurable goals going forward, but were there specific goals that we can use in our evaluation? Were there specific goals set by the previous evaluations that we can use in our evaluations this time to see whether our appointees met those goals?

>> I'll have to defer to councilmember tovo, or the appointees themselves, because the discussions of performance expectations happen in closed session, and there was no formal prioritization of goals.

>> Mayor Adler: With the one exception --

>> Typically, with one exception, you're right. That was a memorandum that was drafted for the city manager.

>> Mayor Adler: Councilmember Spelman wrote a memo which I attached to my posting back in the first week of January. Ms. Houston.

>> Houston: And I think that's a great idea. We have -- we came into these positions, and there were no expectations, from my perspective, about what the city manager had done. Now work with the city manager, the clerk has just been hired, so we haven't even worked with her for a year.

[11:11:45 AM]

And the auditor. And who was the fourth one?

>> The city clerk --

>> Mayor Adler: The court clerk --

>> We've been working with the court clerk for ten years it seems like, because she's always there trying to help us get through -- navigate things. But I think one of the things when we think about setting performance goals in performance areas is, in my mind, we cannot forget equity, because that's something that is going to continue to -- we talk about affordability and transportation, but one of the things that connects everything together is how do we do this as an equitable city, and not just a prosperous city and a non-prosperous city. So we've got to somehow have those conversations in everything we do in the city, so when we talk about it, I will be asking us to add that.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. So the more I've listened to this, and the more I thought about this, the idea has come to me in the last couple of minutes. Why doesn't the city put up a referendum for the city management to say we support or we don't support, some referendum that might be binding or nonbinding? The reason for that is the mayor faces the voters with a binary question at election time -- do you want to keep the mayor, do you want to replace the mayor, binary choice. And we have -- and I'm not going to argue the point here, whether we should have weak mayor and council and strong manager or vice versa -- not hing that discussion at all. What sense does it make to have a weak mayor and council and then have a citywide vote, but then when it comes to the more powerful executive figure, which is the city manager, to have no vote of the people? And so we could have a nonbinding referendum every two years, are the voters happy, is their perception that we're doing a good job, that the management is good, and put that up to the voters.

[11:13:42 AM]

Is there any legal prohibition on that?

>> You can't have a nonbinding referendum. Our charter says the councilmembers are elected, the council appoints the council manager, and then the other appointees as well. It's in the charter.

>> Zimmerman: We would have to change the charter to allow the voters to vote citywide on whether they affirm or don't the management?

>> You would be, in essence, electing a city manager. I don't think that's done anywhere, so it would be -- you'd be making an elected official as your city manager, in addition to having an elected body who was the policy-makers.

>> Zimmerman: Not if we have a nonbinding referendum, we could have that in the charter.

>> The voters could change the charter and have a nonbinding referendum added to it.

>> Mayor Adler: Ms. Troxclair first.

>> Troxclair: I wanted to circle back. I'll look at the memo that you referenced, but I reached out to a couple of people in the hr field that I know, and the consistent feedback that I got from them was to make sure smart goals were set, specific, measurable, result oriented, and time-specific. That's only fair to us and the appointees so they know the concrete criteria they're going to be judged on. I wanted to add that. If those weren't in place in the past, we should talk about them going forward.

>> That is the core of performance planning. And I think with the new process that section six allows the council and appointee to agree upon those smart goals in establishing what the outcomes would be, and the measurables surrounding them.

>> Mayor Adler: There was a specific attempt in adding that part. Ms. Houston.

>> Houston: Mayor, thank you. I was just going to say that that's an intriguing idea that my colleague suggested.

11:15:42 AM]

That's why we were elected. And I take that as my responsibility as the elected official. Every four or two years, people are elected. And that's what we are elected to do, is evaluate the four appointees to the council. So I just see that as my job.

>> Mayor Adler: Okay. Thank you. If there's nothing else, we would ask -- mayor pro tem.

>> Tovo: Yeah. I completely agree. And I think all of us went through a campaign recently enough that we remember the questions. And a lot of our candidate forums, about the city management and other things related to that. So there's clear that people do consider that when they're making a decision, when they're casting a vote for the elected officials. I just wanted to say, I've had an opportunity to speak with a couple community members and reflect on some of the information, Dr. Washington, that you sent last night. And one of the things I'm going to be thinking about over the next couple weeks is the matter of the 360 evaluation. And so, thank you for providing that information. I agree with councilmember pool that it certainly made sense in the context of hiring decisions, but I appreciated the context about its use within the organization on an ongoing basis. And particularly, the lack of frequency of its use in performance review situations. So, anyway, thanks very much. And I, too, just want to take this opportunity to echo councilmember Casar's thanks and appreciation to the staff and the management. I think our council -- all of our staff are doing a fabulous job in this really intense year of transition, and I think our council appointees have really led those efforts. So, thank you.

>> Mayor Adler: Dr. Washington, if you'll go ahead and repair that resolution, take that through, consistent with your recommendations, it'll come back on the 26th. And if you could put together a schedule for the executive session so that people can see how that's going to work with the four appointees, that would be helpful.

>> Thank you, mayor.  
>> Mayor Adler: Thank you, sir.

[11:17:43 AM]

Okay. We'll now move on. Let's hit some of the items that were pulled. Let's begin with item number 3. It was pulled by Ms. Gallo, the sidewalks.

>> Gallo: Thank you, mayor. Do we have someone from staff? I just have a couple of questions. When I initially read this, it sounded like it was sidewalks, but then this look like this is an increase in the contract to install an electronic marquis sign in an electronic kiosk. And I guess my question is why that would not be put in the convention center operating budget instead of the cip budget.

>> So, Rosie with the capital contracting office, and I have Robert here, an assistant director with public works, to help answer your questions. The work is -- the item that's before you today is to ratify inclusion of those scope elements in what was a sidewalk contract. So you are correct there. But I'll let him address the decisions that went to inclusion of those items.

>> So, Robert, assistant director with the public works department. And the funding did come from the convention center. And we were asked to participate, because it was a sidewalk job, and we had the appropriate contract to deal with sidewalk programs. And that part of the contract, we felt it was with the actual sidewalk work, because it was something we had removed. So that's kind of why we dealt with it in that manner.

>> Gallo: Okay. So the funding for the kiosk -- the funding for what we're being asked to vote on today is coming from the convention center budget?

>> Correct. We have someone from the convention center here, but --

>> Gallo: I was trying to understand why it was in the cip budget versus the convention center.

[11:19:47 AM]

If that's where it is, then, thank you.

>> That is where the funding came from. This item does not increase the overall cost of the contract, or increase the contract, it's just adding those scope items.

>> Gallo: Okay. Thank you.

>> Mayor Adler: Thank you. Is there a motion to approve Jxq it THR? Ms. Gallo moves. Is there a@ secon0 Ms. Houston. Any disssion? Those in favor, pe raise your hand. The oppod? All inavor, Mr. Zimmerman off the ds.let'set, then -- we'll skinumber 7. Mr. Zimmerman was the one T pulled that. Wh about ite number 12? Pulled by Gallo and troxclair.this is the aisd matter. Also is item number 14, also an aisd matte pulled by Ms. Troxclair. Ms. Troxclair, do you want to kick us off?

>> Troxclair: Yeah, in reviewing these items and in the context of our discussion at work session the other day about, you know, the city, kind of, kicking in money when it can to take over expenses of the school district that could be considered, you know, health and human services related, and less school district-related so that we can help with the financial burden of the school district, it occurred to me in seeing all of these items together -- and I think I mostly have the same question for all of them -- is how does -- and this might be a legal question more than a health and human services question. But if we're using city tax dollars to pay for these programs, are these programs specifically also available for non-aisd students?

11:21:45 AM]

For example, students who live in one of the other school districts that we have within the city limits, or students that attend charter schools, or -- because -- can you tell me whether or not these programs are all restricted to aid?

>> Deputy director, health and human services department. These services are at a particular aid, and they are for aid students. Yes. They are restricted to aid students.

>> Troxclair: So, I guess what I'm asking is, you know, I know we have Manor Aid as part of our city limits. A family that lives in Manor is not only paying school taxes to their aid, but they're also paying city of Austin taxes, right?

>> No. In the city of Austin of Manor? You would pay Travis county taxes, really.

>> Troxclair: I'll use a different example. So in my district, we have not only aid but Eanes ISD, and there are families that live in the Austin city limits, but, their children attend Eanes schools. They pay Eanes school taxes, and city of Austin property taxes. It seems to me there's some kind of commingling of funds here that those families who don't live in the aid boundaries, but do pay city of Austin taxes, that the money that's going to support these programs, they're paying for, but their children are eligible to receive the benefits of them.

>> Well, that's not a question that I can answer.

>> Mr. Mayor. Mr. Mayor.

[11:23:50 AM]

>> A legal question or not.

>> If the question, councilmember, is whether or not these particular contracts involve children who are not within aid, the answer is no. That doesn't mean there couldn't be another contract to involve children from other independent school districts. As long as it's a municipal purpose for spending the money, there could be other school districts involved.

>> Mr. Mayor.

>> Mayor Adler: Yes.

>> Kitchen: Did you finish your question, councilmember Troxclair?

>> Troxclair: I might have more. It occurred to me when we were looking at increasing the amount of money that we use for aid programs that there are a lot of us on the dais who represent families who don't go to aid schools. And I just think that that's something that we should maybe talk about.

>> Kitchen: Okay. Well, I have just a few followup questions. I think it might be helpful for people to understand what these services are. So, if I'm understanding correctly, a parent support specialist service involves social work-type of services where -- tell me if I've got this right. We have a social worker that helps that family connect to other services. Is that fair?

>> That is accurate.

>> Kitchen: Okay.

>> In Title 1 schools, so the majority of the students are on free and reduced lunch.

>> Kitchen: Okay. So this is a service that's provided for a school where there are -- you know, there are likely a lot of kids whose families are eligible for these kinds of services. Do we not also, as a city, offer social services to other members of the city of Austin, other residents, in other places? So this is not the only place. I mean, the school district is not the only place that we offer social services. Is that correct?

>> We currently have a contract with an agency that provides services for Del Valle at ISD, and that was a part of the solicitation, so, yes.

[11:25:42 AM]

>> Kitchen: Okay. So I would just say that these are services that we are not paying for on behalf of aid. These are services that our health and human services department has historically provided in different locations at different times, and are within the city of Austin's responsibility, as has been interpreted in the past. And they're not only offered to aid students. There are a whole range of services that we offer through our health and human services department. And so I think this is perfectly important. In fact, I think this is a smarter, more cost-effective way to offer the services that we offer as a city.

>> Mayor Adler: Okay. Mayor pro tem.

>> Tovo: I completely agree. I also just want to back up and say, these are all items we approved in our budget. I believe we've had an opportunity to talk about them before. They're coming back to us, but -- certainly it's our prerogative to consider them again, but we did allocate the funding for these purposes in our budget. But I completely agree with the comments that councilmember kitchen has made. Not every program that we support with city of Austin dollars is going to benefit every child or every individual within the city limits, but I believe there's a very strong municipal purpose to supporting the programs that are on our agenda today. I believe it's critically important that we make sure that the families within these programs and their children have an opportunity at success. I think it's good not just from social and moral reasons, but also for economic ones. So I'm very supportive of this and the other items, and I'd be happy to talk more about any of those or the history of resolutions and other commitments that the city of Austin that has made to aid to try to partner and leverage resources, and extend our dollars. But I'll just leave it there for the moment.

[11:27:45 AM]

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: Thank you so much. And I just want to remind everybody that's listening is that this -- not every school is a part of this program. The trigger is if it's a title I school. And those are primarily schools with high-minority enrollment. Most of the kids are on free and reduced lunches. That's the trigger. So that means that a lot of our schools in aid don't even have parent support specialists. I just wanted to remind everybody of that.

>> Mayor Adler: Okay. Ms. Garza is next.

>> Garza: Oh. I guess I just wanted to point out that I think -- I think the other school districts don't -- aren't subject to the same recapture issues that these other school districts are subject to. So -- and I understand where you're going, councilmember troxclair, but at the same time, you know, the taxes that I pay repair roads in parts of Austin that I will never drive on. And the taxes that I pay, you know, fund the fire department. And I've never had a fire at my house. I mean, it's about pooling resources to help in areas that we feel we can -- that can benefit our community. And this is one of them.

>> Mayor Adler: Mr. Renteria.

>> Renteria: Yes, thank you. You know, these programs -- and I live across the street from one of the schools that benefit from this program, Martin middle school. But a lot of these schools are in low-income areas. Or a lot of these students are low-income. And, you know, we're trying our best to keep these young kids in school and to graduate from high school. You know, we were having a lot of problems with dropout rate in high school. And because of these programs that we established here -- which Austin ISD cannot finance because of the recapture rule -- has improved that school -- their graduation is one of the top here in the central Austin so these programs do help.

[11:29:45 AM]

It keeps the kids off the street. You would rather have them in school and to graduate with high school, to go on to career paths that would benefit Austin. You know, we want productive young citizens here in Austin. And this is a benefit that the city gives by financing these type of programs.

>> Mayor Adler: Any further discussion on this? Yes, Ms. Pool.

>> Pool: I just wanted to ask, is item number 14 is also one of the aid contracts that we had on our budget allocation last year. It's also a direction in the same area that item number 12 is. And I would like to move approval, since these two were pulled off of consent, move approval of both items 12 and 14.

>> Mayor Adler: Okay.

>> Mayor and city councilmembers, Bert Lumbreras, city manager. I wanted to respond on the relationship we've had with aid, not to diminish the importance of the other school districts, but, the councils in the past, and this council has given us that indication. Certainly we can expand that. There is a need, because of the recapture of the loss of revenue that aid has had. And I also recall some years ago with the potential of school closures in many of our neighborhoods. That was going to have a severe impact in our community. Back then the decision was that we need to figure out a lot of different ways of how to partner with aid. Because in this case, they're focused on aid, we certainly try very hard to provide many of our social services programs to as many city of Austin residents, whether they're aid or not, you know, the same type of equivalent services. But I would say in this particular case, the mayor pro tem is exactly right. These are contracts that the council said we want to do because there is a public purpose, there is a need for it. Similar to the issues that we deal with the joint subcommittees. The joint sub committee is made up of the city, the county, and the school of aid. Not to say that the other school districts are not important, but, you know, councils in the past have placed an importance on that relationship. And certainly, we're open to, you know, looking at how we can expand it. But it also goes to what limited resources we have, where we can best invest it. And what I would say, specifically on the joint subcommittee, we have focused on specific, target the priorities.

[11:31:42 AM]

For example, the truancy issue. The truancy and the mobility of students. Students are moving because they're not able to afford, you know, housing in any particular area, and they keep moving from one geographic area of the city to another. So we've tackled some very, very important issues that are impacting our community. But obviously, aid has a predominant role in that. So I think this stems from that, but we're certainly open to any other relationship, should the council wish to go in that direction.

>> Zimmerman: Thank you, Mr. Mayor. I'd like to put the overhead back up and call attention to some of these Numbers that I think councilmember troxclair was referring to. And, of course, if you look at the inequity of how city money is being distributed within the school districts, basically, \$1.8 million to aid and no money anywhere else, we talked about this months ago. We're either going to have to go one or the other direction. We're either going to have to end all the city taxpayer subsidies to government schools, or else we're going to have to expand them to other schools, right? This is an unstable equilibrium here. When the other school districts start looking at this inequity and how the city subsidizes school districts, there's going to be pressure to spend money in the other districts, or stop spending money on aid. Let me back up to the point about the recapture. Let's remember the motivation for the robin hood plan that was done decades ago, a court order that said we had inequity in school funding. The courts ordered we're going to share money between property rich and property poor districts. So this was supposed to be a solution to an equity problem. Now if the schools and the council wants to say, well, the solution for inequity has produced more inequity, so we're going to have to subsidize aid because of inequity.

[11:33:45 AM]

The \$1.8 million is a hundred percent certainty there's still inequity. I'm calling on the council to address this. We have an affordability problem in Austin, this is part of it, we need to stop subsidizing the schools with city taxpayer money.

>> Mayor Adler: Ms. Troxclair.

>> Pool: Mayor, I have a procedural question. I have a motion on the dais, but it has not been seconded.

>> Casar: I'll second that.

>> Mayor Adler: It's been moved to approve item number 12.

>> Pool: 12 and 14.

>> Mayor Adler: Seconded by Mr. Casar. Ms. Troxclair.

>> Troxclair: So, I appreciate everybody's comments. I wanted to remind my colleagues that I did not -- I was absolutely not questioning the merits of the programs. I was asking what I thought was an intriguing legal or financial question. But I understand that these programs provide important services to many children in Austin. So I didn't mean to imply that they weren't worthy programs. But I did -- what made me think about it is -- to go back to councilmember Garza's examples, that she's never used -- she pays for the fire departments and roads that she's never used, but she is -- she does have those resources available to her if she wants to drive on those roads, or if she needs to call the fire department. In this case, there are families that are paying into these programs that it doesn't sound like their children are eligible for them, to participate in them. There is an important difference there. The -- parallel that made me think of this, the city has been sued by Austin energy customers who do not live in city limits, paying what they think is higher rates on their energy bills. And then we use \$150 million in revenue from Austin energy and transfer that to the general fund and use that to fund parks, libraries, etc.

[11:35:54 AM]

So they are paying for city services. But when those people turn around, they can't go get a library card for the city of Austin because they don't live in the city. And they were successful in that lawsuit, because they made an argument that they were paying for services that they weren't eligible for. So I don't want to take any more time on this today, but I guess I'm going to abstain because I want to think about the legal question a little bit more. But I appreciate everybody's interest in wanting to support the children of aid.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Just a quick question for our legal staff, I think to suggest that there is some legal vulnerability here for funding these kind of programs is not appropriate. And I don't want to leave it hanging out there. So I have to ask our legal staff if that's something you can speak to.

>> Spending these dollars for a municipal purse that you all decide as a policy-make sera legal thing to do. The policy decision about how you spend those dollars is yours alone.

>> Mayor Adler: Ms. Gallo.

>> Gallo: So I pulled this to ask some financial questions, but I just want to say that I absolutely support this program. In our backup information, it talks about the parent support specialist services programming provides educational and skill-building services to parents and families of aid students. And those parents and families are residents of Austin. And that includes parent education program, building parent life skills, the development of parent leaders, and referrals of parents and families to other social services regarding behavioral and mental health. This really is a community program that has a lot of benefits. My financial questions were that this looks like in the initial term -- probably I need staff for this. It looks like the initial term from November 1st of 2014 through December 31st of 2015. And I think this is important to point out, that the total cost of the program was 2 million. And the city

put in 1,250,000, but it looks like 745,000 came from other sources, so it looks like the city has other partners and I just wanted to make sure I was reading that information correct, that it wasn't the city that was funding this entirely, that there are other partners that are helping with that 745,000 for that initial term?

[11:38:16 AM]

>> So the city does not fund this program 100%. Aisd does fund parts of this program.

>> Gallo: And a good portion of it, it looks like. And then the other question that I have, it looks like what we were approving was the extension of the contract, which would've begun on January 1st, because the previous ended on December 1st of 2015. So my concern is that when are extending contracts that have already expired, I want to make sure that potentially in the future that those item are brought before the council prior to the expiration so that we don't cause a risk to the funding. I'm not sure that that's happened, but I think in this case there's about a month gap between our commitment that ended in December to us discussing it at the first part of February. So it is an important program, and I just want to make sure that it's brought to us in a timely manner so we can continue to support it and not cause funding gaps to entities that are depending on that money. So, thank you.

>> Mayor Adler: Ms. Houston.

>> Houston: Sorry. I didn't have my mic on. We've been talking in health and human services about tightening up on some of the matrix and performance measures for all of our social service contracts. So in exhibit a2 we talked about 4,000 parents who -- no, 5,000 parents attended and 4,000 parents improved their knowledge. But at some point, it would be helpful to know some concrete ways that parents improved their knowledge of what, and how it improved their lives, or life skills. There was something in there about life skill training. What did that encompass? How many people secured a job? How did they learn to use a computer? I don't know what the skill sets are, but I think it's better to talk about what people actually learned, than how many people were actually present and attended the training.

[11:40:19 AM]

So if we could start to begin to tighten up on some of those metrics, I think that would be helpful.

>> Okay. Yes, ma'am.

>> Houston: Thank you.

>> Mayor Adler: Is there further discussion? It's been moved to approve items 12 and 14. Those in favor, please raise your hand. Those opposed? Zimmerman voting no. Those abstaining? Ms. Troxclair. The vote is 9-1-1. Thank you. The next item that we have is Mr. Zimmerman. You pulled item number 7.

>> Zimmerman: Thank you, Mr. Mayor. Just a couple of quick technical questions on this going back to benefit and risk analysis. I read through the materials. I think we had a couple of q&a replies. And one of the motivations here appears to be mitigating risk for chlorine. Chlorine is a pretty toxic substance. And so we just didn't really get much detail as to what is the reward, what's the benefit, what is the cost of the benefit we're receiving. I was hoping somebody could tell us on the record how this analysis was done to say we need to spend \$2 million because we get these benefits and this risk elimination or risk reduction. So if we could just get some comments on that, it would be helpful.

>> Greg, director of Austin water. This project is a project to evaluate options to move to a more inherently safer technology for disinfecting water at our Ulrich treatment plant. The water wastewater industry in response to increased threats and risk is moving towards inherently safer technologies to disinfect water, including options such as on-site generation where you don't store any chemicals on site.

[11:42:28 AM]

You create the chemical as needed. There's increasing regulations related to chlorine gas and associated risk with storing gas on-site, and this project would evaluate options to switch to different technologies at Ulrich.

>> Zimmerman: I'm sorry. Are we on the same issue? Because this is \$2 million. It doesn't take \$2 million to make an assessment.

>> Well, this would include some design services for options for that, too. I might have Chris, our engineering manager, come up.

>> Zimmerman: That would be terrific, thank you. I have to bring this up, because we have a problem with our water bills being way too high. So anytime we spend money, the water customers are going to be paying, so.

>> Good morning, Chris, Austin water. Yes, the 2 million including the study. And then based on the study findings, we will pick the best cost effective solutions. And that will cover the preliminary engineering design.

>> Zimmerman: And so I think -- but I think it's obvious we have advantages of going away from chlorine gas. Other than about anybody else -- I don't know about anybody else, but, I've had to work around these chlorine gas facilities, it's dangerous, nasty stuff. There's no questions it would be great to get rid of that toxic chlorine, no question. It's just a matter of cost effectiveness for what the solution is. And if you already have this alternative method at water treatment plant four, you already know it's a good thing. You like it, it works. So I'm confused as to why we're spending \$2 million instead of just putting in the facilities. Because if the \$2 million says we ought to do it, how much additional money are we going to need to go ahead and complete the project?

>> The difference of these facilities already putting operation. And for many years. And so we had to do this in sequence, in a very cautious way.

[11:44:32 AM]

So while we are converting the system, and a lot of factor need to be considered. So we cannot just rush and get into the solution. Again, this is new technology. We also need to look at what's available on the market, what works best for that individual facility. And so including study, the risk assessment, and also the come up with the design. And our engineer -- we think in this case, might be within plus or minus 15% of the contracting cost. It really depends on the total construction cost.

>> Zimmerman: So you don't have even a budgetary estimate for what it would cost -- what additional charges we would incur after we spent 2 million to say yes, we want to do it? You don't have an estimate on that?

>> Any addition will come back to the council for approval. Currently estimate, that's based on the best estimate, based on the staff. But things could happen. For example, in order to make a conversion, we might have to spend some additional temporary works to sustain the operation. So that part we need to wait until we complete this study.

>> Zimmerman: Okay. Thank you.

>> Mayor Adler: Thank you. Any further discussion on item number 7? Those in favor of number 7, please raise your hand. Those opposed? Mr. Zimmerman voting no. Ms. Pool off the dais. The others voting aye. That dispenses with number 7. That gets us to number 16. 16 was pulled by staff. This is the mercer settlement.

>> Megan, law department. I'm here this morning to recommend you approve a payment as part of the mercer vs. City of Austin lawsuit. As was discussed in executive session, this lawsuit is related to the July 26, 2013, Jr.

[11:46:41 AM]

The lawsuit was brought by the lawyers on behalf of the widow for Mr. Jackson, and Mr. Jackson's mother, with allegations that the officer used excessive force when he shot and killed Mr. Jackson. In exchange for the recommended payment to the parties, the lawsuit will be dismissed and the city will seek a full and final release from the remaining parties in the lawsuit, releasing the city and any and all employees from claims that were brought and could've been brought against the city. We recommend payment based on these terms.

>> Mayor Adler: Husband Mr. Houston.

>> Houston: I move adoption of the settlement.

>> Mayor Adler: Mr. Renteria seconds that motion. Is there any discussion? Mr. Zimmerman.

>> Zimmerman: Mr. Mayor, I'm going to be voting against this settlement. I'm not satisfied, based on what I've heard publicly and privately, that the city taxpayers should be obligated to pay this amount. I'll be voting against.

>> Mayor Adler: Okay. Any further discussion? Those in favor -- I would just say that in these kind of situations, in so many ways, nobody is made whole in any of these situations in any way. But I want to thank the staff for diligently pursuing this and getting to a place that represents the best resolution. Those in favor of the settlement please raise your hand. Those opposed. Mr. Zimmerman voting no, the others voting aye. Thank you very much. That gets us to item number 21. Mr. King, you can speak. This is the south by issue.

>> What happened to number 20?

[11:48:42 AM]

I thought it was pulled. Maybe I'm wrong.

>> Mayor Adler: I didn't have 20 being pulled.

>> Okay.

>> Zimmerman: We put it back on consent because it was modified.

>> That's fine.

>> Mayor Adler: With respect to number 21, I'm going to ask the council to postpone this item so that we can come back next week with an ifc. We had earlier set a course of what we wanted to do with respect to the south by funding. It was thought at that time that the -- and a half that was paying for public safety was something that could be paid out of our budget. There's an ordinance that prevents the city from doing that, because as a matter of ordinance, police associated with barricades is a fee that has to be levied. So next week I'll be coming back and making a motion that we waive that ordinance in this case so that we can effect what we had discussed about earlier. And I would ask that we wait the week to be able to handle it, I think, in line with what we had talked about before. Mr. King, you have the opportunity to speak on it, thank you. I would move to postpone this matter until next week and have it brought up parallel with the ifc that I'll be bringing with respect to waiving that ordinance requirement. Is there a second to that? Mr. Renteria. Is there any discussion? Those in favor, please raise your hand. Those opposed? It's unanimous on the dais. So we'll push that. Thank you, Mr. King.

>> Mayor.

>> Mayor Adler: Yes.

>> Pool: I had stepped away from the dais briefly when the vote came for item seven, which was the Jacobs engineering group contract. And if you could ask the record to reflect me as aye.

>> Mayor Adler: The record will reflect that had you been present, you would've been voting aye.

[11:50:47 AM]

That gets us, then, to the next item. Which is item number 30. Pulled by Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. The point on here is, we put in some q&a. And we were trying to figure out why the monopoly utility is doing a survey, and what we would get out of it. And what we got back in q&a, it seemed to us not an answer to our question, but rather some comments about how accurate the survey was going to be. But what we were asking for is why we should even spend the money. I'm inclined to vote against this 1.5 million, because it's just yet another expense that's going to bear no benefit to consumers, but will have a slightly negative impact on the bills. So let me just see what you have to add to that.

>> Vice president, customer energy solutions, good morning. This is a service to conduct market research with our consumers, our electric customers, but also with customers of other city departments. So recently, we conducted research with customers of Austin resource recovery that related to recycling. And that has provided instructive insight to arrive as they go about assessing how to modify their approaches to collecting refuse and recycling waste. Let me give you a couple of examples that hopefully will clarify and speak directly to what you asked. We have undertaken research with consumers to determine whether they want a separate line in which to call into the call center. Commercial customers wanted a separate line. Satisfaction improved directly as a result of that. About a year ago, the prior city council suggested that Austin city -- Austin energy administer the pace program, the property assessed clean energy program.

[11:52:50 AM]

We went out and surveyed commercial customers. They said, no, we don't believe we would be well-served by Austin energy administering that program. We elected not to pursue that. It would've cost more money. It would probably not have been administered as cleanly as it is now, and so we backed away from that. How do I measure success? If we offer a program and that program is fully sub-described and it gets us cost-effectively to our 900-megawatt goal in terms of energy efficiency and demand response, or to our 200-megawatt goal, that's how I measure success. So it's customer satisfaction. It's subscription rates. It's reduced call times in the call center. It's enhanced operations in 311 in terms of directing callers. Those are the metrics that I believe you were after. I'm sorry if staff did not understand the question correctly. But that's how we measure success, by using this firm, an outside firm, not Austin energy customers, to question our constituencies, but by a third party.

>> Mayor Adler: Okay. Ms. Pool.

>> Pool: I'll move approval.

>> Mayor Adler: It's been moved to approve this item number 30. Is there a second to that? Ms. Garza. Any further discussion? Mr. Zimmerman.

>> Zimmerman: I'd like to speak against the motion. I'm still struggling with the value this provides for the rate payers who are crying out for relief. Has there -- is there a -- is there any move afoot -- I know we're going into some discussions about rates and our rate structure, but, you know, is there something I've missed in today's agenda that pointedly talked about how we're going to get fees and rates lowered?

>> This is precisely the type of area where a third party can help engage in those December discussions.

[11:54:50 AM]

So, for example -- and I know it may not be the best example to use in this certain situation -- we have a community solar offering, all right. Maybe not the best example. How are those customers going to pay for that? Because those customers will pay fully for that. It's not going to be subsidized. When we set that tariff, it will say, how should that tariff be collected from residential customers. And so it will help inform that process that will be part of the rate-setting process. That's just one example. I believe there will be others.

>> Zimmerman: Okay. Thank you very much.

>> Mayor Adler: Thank you. Any further discussion? Those in favor of adopting item number 30, please raise your hand. Those opposed? Zimmerman and Troxclair voting no. Ms. Houston off the dais. The others voting aye. That's item number 30. That gets us to item number 36, which we're going to carry for right now, not for action today, for but discussion pending now. Yes, mayor pro tem.

>> Tovo: Mayor, I was going to suggest if it's appropriate, I was going to request a postponement of an item, item 42, which is an item referred from audit and finance.

>> Mayor Adler: Okay. Ms. Tovo is moving to postpone item number 42.

>> Zimmerman: I'll second.

>> Mayor Adler: Seconded by Mr. Zimmerman. Any discussion? I'm sorry? It's just postponed subject to call.

>> Tovo: No. Actually, I'd like to postpone it until our February 28th -- I'm sorry, our February 25th meeting.

>> Mayor Adler: It's been moved to postpone this item to February 25th.

[11:56:53 AM]

It's been seconded by Mr. Zimmerman. Any discussion? Those in favor, please raise your hand. Those opposed? Passes unanimously on the dais. What about doing items number 38, 44, and 45?

>> Mayor, as we talk about postponing items, just a reminder that the 25th is also an Austin energy day, so we are having both Austin energy and a council meeting that day.

>> Mayor Adler: Okay. Do we need to make sure that we call, then, a special meeting on the 25th? If there's not -- let's make sure that we call that.

>> Houston: Mayor, if I had been on the dais when the vote was taken on 30, I would've voted in favor.

>> Mayor Adler: So noted. We have item number 38, 44, and 45. Do we want to try and handle that?

>> Houston: No, not in three minutes.

>> Mayor Adler: We're down to three minutes.

>> Mayor. Before we move on, I'm sorry. Can I ask why we picked the date of February 25th and we can't just move that item to a different day where we already have a committee meeting -- or where we already have a council meeting?

>> Tovo: I thought we were having a council meeting on that day.

>> Troxclair: I thought you just said --

>> It's both an ae council meeting and a regular council meeting.

>> Also, the mayor pro tem's request to begin some of the workshops for times that were already scheduled -- and I just want us to be sensitive when we're postponing to an Austin energy day, if there are other days we could postpone it to, that would help the agenda scheduling and meeting management for that day.

[11:58:55 AM]

>> Troxclair: I agree with that. I guess I'm asking why we're choosing that date.

>> Tovo: For one thing, it was an item that we heard in committee a while ago. And I'm not exactly sure, but it took a while to get to this agenda. And because it took a while, I think it took people unaware, including me. So I'm hesitant to delay it too terribly much longer. And I would ask that we postpone it, as we did, to February 25th. And then on February 25th, kind of evaluate whether we're ready to have that conversation. I think -- anyway, I think it's relevant to the conversation on the 25th. And also, it's something that is a recommendation from the municipal civil service commission that they made a while ago at this point.

>> Mayor Adler: Okay. Thank you. Before we go to citizen communication, we have a birthday on the dais today.

[ Laughing ]

[ Applause ]

♪♪ Happy birthday to you happy birthday to you happy birthday to you ♪♪

[ applause ]

>> Mayor Adler: Set off the smoke detectors. Happy birthday, councilmember. We have, I think, three speakers speaking today on citizen communication. So let's go ahead and call those. The first one is Rae Olenick. And then Walter Olenick is on-deck.

>> Okay. Good afternoon, all. Last August, a hearing on water fluoridation highly tilted toward the pro-fluoride side was held during the meeting of the public utilities and the health and human services committees.

[12:01:09 PM]

Each side was allowed more or less equal time to present a formal presentation. However, to minimize public participation, which always draws a large number of anti-fluoride speakers, the citizens communication signup was limited to two people on each side. So I took one of those slots along with a dentist, and the fluoridationists produced their own dentists, plus a woman named Stephanie, who identified herself as an Austin resident and parent of a 4-year-old. Now, Ms. Reuben's very highly scripted presentation at the podium was unusual enough to raise some red flags. She acted nervous for one thing, for more nervous than would appear to be warranted by a three-minute appearance before a city council. She -- at one point, she even became so flustered that she made the statement, getting rid of community water fluoridation is our answer, with which I very much agree. So, a quick check into her background shows that she has a long history in leadership positions with charitable trusts, which is our nation's biggest fluoridation pusher, with the exception of the CDC itself. Pugh spends millions annually on propaganda and lobbying and incentives to communities to fluoridate. Last August, Ms. Reuben had just moved to Austin to take a new job. And after leaving Pugh in 2014. So her ties to that organization are still very recent. And all this information and more appears on her linkedin profile.

[12:03:13 PM]

So a question arises here. Was there any ethics violation at all? Was she informally lobbying by reciting her former employee's talking points without mentioning the connection? At the very least, I see a lack of transparency here. And I personally would be interested to know who, if anyone, in city government, be it council or staff, she might have talked to during the period between June 17th and August 19th of last year. And in fact, I have submitted a pir --

[ beeping ]

>> To that effect and the response so far has been less than adequate. Thank you for allowing me to get this on the record.

(Mayor) Thank you. Mr. Walter Olenick.

>> Good afternoon. The Pugh trust influence can be found everywhere that people are trying to end community water fluoridation. Here's what one Pugh affiliated speaker had to say here last August.

>> Thank you very much. I'm an Austin resident. We drink tapwater, and are thrilled to live in a community with clean and -- fluoridated water. We are lucky that they are doing work. It doesn't reach all children. It doesn't reach all the children's dental health needs. And community water fluoridation is an important prevention strategy for all of us. I'm familiar with the research on fluoridation, and am completely confident that fluoride is safe for my child and whole family. The trust the CDC, the American academy of pediatrics, and my local health officials. I've heard from some parents, some friends of mine -- my kids brush their teeth, why do we need community water fluoridation? Why should I care? My answer to them is that drinking fluoridated water adds important protection against tooth decay. It's safe and has been called one of the most -- greatest public health benefits of the 20th century. And regarding the gentleman's comments about why tooth decay has gone up even when we have community water fluoridation, I'm sure part of the problem is sugar, sugary sodas, lack of dental healthcare access.

[12:06:13 PM]

So, getting rid of the community's water fluoridation is our answer. That's going to help public health. And it's free. This is a wonderful, incredible public health benefit for all of us. Let's keep focused on the decades of solid and irrefutable evidence that prove the health benefits and safety of fluoridation. I've read the commentary, and it's truly a fact that this is not evidence that can be interpreted different ways by scientific scholars. The weight of the evidence is clear, this is a safe and effective form of public health benefit. Finally, I just want to comment about -- I realize this issue keeps coming up over and over again, and I realize that the city council -- I appreciate that you keep hearing from both sides. Thank you.

>> Mayor Adler: Thank you. Next speaker is Sylvia Mendoza.

>> There is no time for pleasantries. I'm here today because of certain people who were here at city hall demanding to speak to mayor Steve Adler. They wanted to have a written resolution for APD to stop coordinating with immigration officials. I had to call and sign up to be able to speak here today, while they demanded to be heard. While we have progressed, they want us to regress. They don't want one department to get in touch with another to accommodate those who have broken the law or are undocumented -- in other words, illegal. The definition of illegal is banned, forbidden, prohibited, not legal, unlawful, wrong, unjust, and unconstitutional.

[12:08:19 PM]

Did you know that an illegal who becomes a resident can get old age social security? They would just have to work for a certain amount of quarters, which is about ten years, give or take. While an American will work from age 18 or younger to approximately age 62, sometimes older. That's over 40 years. But get this. There is another fund where an illegal who becomes a resident -- not a citizen, just a resident -- would not have to work for one single day. And that is the disability fund which is out of control. Call the social security office at 1-800-772- 1213 and ask. The undocumented say we are all immigrants, but it depends when you were born or came to the U.S. There is a line here to speak, a line at the grocery store, a line everywhere, yet they want to break the line in front of Americans for benefits. The government states that illegals -- the undocumented -- are not eligible for benefits, but they have found a loophole. Through their American children, they get food stamps, housing, and medical care, while an American homeless veteran sleeps under a bridge, in the woods, freezes to death, or commits suicide. I, as a third-generation U.S. American-born citizen, have had people break the line in front of me when

they claimed disability, yet they were not american-born. I just turned 61 this past Sunday, so I have another year before I can receive my old age social security -- or I thought I could wait until 65, but I've just been informed by social security, it is 66 1/2 years of age if I want full benefits. I'm choosing not to wait. There's this lady on my street who doesn't speak a lick of English. She says in Spanish -- [ speaking Spanish ]. In English, my social security check has just arrived, and I'm going back to Mexico.

[12:10:25 PM]

She'll be back next month. You and I know there are American drunk drivers, but illegal drunk drivers shouldn't be here. I hate to say you, but one of you up there may be the next victim sacrificed to an illegal who is here and doesn't want to be deported.

[ Beeping ]

>> Can I please finish this?

>> Mayor Adler: Real fast.

>> Apd took an oath which states, I solemnly swear to perform duties to the best of my ability, and I will be faith to feel the demands for truth and honesty of the establishment of my profession and the Austin police department. I will devote my efforts to the profession of policing and the service of the neighborhoods and individuals of this community, the city of Austin.

>> Mayor Adler: Thank you.

>> They need to do everything within their power to protect the public, first and foremost, if they have information that would cause harm to anyone. Stand your ground.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Let's take care of a couple items here quickly that I think we can take care of so staff can leave. Item number 43 is an item related to attorney's fees, came up in the audit and finance committee. Mayor pro tem, do you want to tell us what that is real fast?

>> Tovo: Yes, though I may have -- it's been a while since we've talked about this issue at the audit and finance committee, so I may need some of my committee members to chime in here. But the commission has need of legal counsel, and this would extend the contract for that. And as I recall, we voted to recommend it.

>> Mayor Adler: Okay.

>> Tovo: Let me just double check that.

>> Mayor Adler: Mayor pro tem moves adoption of item 43, seconded by Ms. Pool. Any discussion? Yes, Ms. Troxclair.

>> Troxclair: I know that we postponed the item related to the pay for our commissioners to a different meeting, but, I mean, in my mind, they are a little bit related.

[12:12:29 PM]

I certainly understand because we have a volunteer board right now who might not have legal expertise, but they need legal expertise to make the kinds of decisions that they're making. So I'm okay with their ability to hire outside counsel, but I am concerned if we are changing the system to offer, you know, paid benefits for our municipal civil service commissioners that my stance on how much additional outside money we need to commit to that commission might change, and maybe we need to think about having people with legal expertise on that commission if we're going to be paying them. So I think they're a little bit related, but I'm going to support this item for today.

>> Mayor Adler: Ms. Houston.

>> Houston: I think there are two attorneys on the civil service commission -- I think.

>> That's right.

>> Houston: I think that's right. But somebody could probably tell us if we are very right.

>> Rebecca Kennedy with the human resources department. We have three attorneys that are sitting on the commission right now.

>> Houston: And the other thing is that it looks like some of the commission seems to be weighted toward labor. So that's just the information from me, is that we've got enough attorneys, I think.

Anytime you have more than one anywhere it seems to belabor some things.

>> Mayor Adler: It sounds like the beginning of a joke.

[ Laughing ]

>> Or the end of a joke.

>> Mayor Adler: Or the end of a joke. It's been moved and seconded to adopt this item number 43. Further discussion, Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I just feel like I don't have enough information. I'm inclined to vote for this based on my colleagues voting 4-0, but can I get a little more idea of, you know, what the motivation is and why we need to go outside? Can you help me with that?

[12:14:33 PM]

>> Rebecca Kennedy again. One of the things we heard from our commissioners was that they wanted a neutral lawyer that wasn't representative of the city, because they felt when the city was coming forward and bringing forward cases that the lawyers that were representing the city side would then, maybe switch and then advise the commission. So they wanted someone that was completely neutral.

>> Zimmerman: Okay, that makes a lot of sense. I think where I'm going with this is, we have attorneys who specialize in labor law, okay. Some who specialize in representing unions and workers, others who specialize in representing, you know, management and companies. That's kind of my point. So I'm not -- if we approve money, does it mean that the money's going to be split evenly between both sides? Because those are the opposite points of you have, you have labor, management, you can have legal opinions and outside legal advice. How do I know what the intention here is? Is it to get opinions from the labor side or is it balanced to have the employer or the corporate side, or can I know how the money's going to be used?

>> Mayor.

>> Mayor Adler: Yes.

>> So I think the outside lawyer for the municipal civil service commission is to represent their interests. And as Ms. Kennedy said, the lawyers for the city of Austin represent management in front of the mcs, the municipal civil service hearing, so they've asked for having somebody -- this lawyer works for a firm that does defense side work, it's not a labor union versus management, they typically represent the employer. And they give advice to this group. I think the questions you all are struggling with is about who you appoint to the commission itself, and that's a different matter.

>> Mayor Adler: Any further discussion? If none -- let's take a vote. Those in favor please raise your hand. Those opposed? Those abstaining. Mr. Zimmerman abstaining, the others voting aye.

[12:16:36 PM]

That item is approved. What about item number 46, the disabled housing access issue? This comes from health and human services. This is on second and third reading. Is there a motion to approve item number 46 from health and human services committee? Ms. Garza moves it. Seconded by Ms. Houston. Any discussion on this item?

>> Houston: 46.

>> Mayor Adler: This is item number 46.

>> Houston: Yes, I have some comments, but I don't see any staff here, so hopefully they'll hear me. I wanted to thank director smart and the members of the code department and our legal department for their work, which started in 2014 as a result of previous council action on this reasonable accommodations ordinance. This ordinance will add additional protections for individuals of differing abilities in need of housing options in Austin. Additionally, this ordinance is a part of a process that has been ongoing with the code department and other city departments, and the community, since 2009 with the passage of house bill 216. The issue is unregulated homes in our community that offer housing to individuals who have limited or no housing choices. So this effort of -- this is the first step of passing reasonable accommodations. And we look forward to the next step, which will be dealing with unregulated homes. And so I would ask people to pass this ordinance.

>> Mayor Adler: Any further discussion? We'll take a vote. Mr. Zimmerman.

>> Zimmerman: Well, I think everybody in the city is in favor of reasonable accommodations, the trouble being who decides what's reasonable. So I guess this is a process for defining reasonable.

[12:18:39 PM]

And so I abstain from this over just confusion over who gets to define "Reasonable," but I'm kind of still in the same place, because, again, everybody is in favor of something reasonable. And yet, I don't understand how "Reasonable" is going to be defined, so.

>> Mayor Adler: We have one speaker signed up, Mr. King.

>> Thank you, mayor, memorial, mayor pro tem, councilmembers. I'll be brief. I'm hopeful that this is going to pass, maybe not unanimously, but almost unanimously. It's a good thing that we're that we continue to look for ways to help members of our community that are disabled to fully participate in our community. I would suggest that we inform codenext with this, and ask that codenext incorporate these kinds of strategies embedded into our new code. So I hope that just like you've passed resolutions to inform codenext on other issues, that you will do the same with this issue. Thank you very much.

>> Mayor Adler: Thank you. Any further discussion on this item 46?

>> Zimmerman: Just one more, Mr. Mayor. Going to the second page, it says effect, and it says a reasonable accommodation controls over a conflicting city requirement. Can I get a legal opinion on, kind of, what that means? It seems to me it could go both ways. You could be in a disability position and say, hey, I don't think that's reasonable. The city requirement is supposed to give me more access, and reasonable accommodation is unreasonable. It seems like it could cut both ways. Could you help me with that?

>> Patricia link with the law department. As for that specific question, what this means is if staff grant a reasonable accommodation to an individual with a disability, if there is a conflicting city code requirement, that reasonable accommodation will control.

[12:20:47 PM]

>> Houston: And could you give my colleagues the federal reference so that they understand what reasonable accommodations --

>> So the reasonable accommodations is required under the federal fair housing act. So what this ordinance does is allow the city to comply with its obligation in the fair housing act to make sure that we give individuals with disabilities the opportunity to live in the dwellings of their choice. And so this ordinance gives staff the necessary authority and sets out the process to handle that.

>> Zimmerman: One more question on this. Is it fair to say -- so we have the Ada, and we have requirements for access. I thought the whole point of this was to say if the law demands access, but it

costs an astronomically large amount of money, that there could be some other "Reasonable accommodation." No, or?

>> An accommodation under the fair housing act is a change or exception to a policy rule or regulation. What you're referencing in terms of cost is actually the reasonable modification, and that is a modification of the structure. We're not acting as a landlord or a property owner in this situation. Generally speaking, the reasonable modification under the fair housing act would not apply to us.

>> Mayor Adler: Ms. Pool.

>> Pool: Oh, I was just going to call the question.

>> Mayor Adler: No further debate, we'll go ahead and take a vote. This is on item 46. Those in favor, please raise your hand. Those opposed? Mr. Zimmerman abstaining. Ms. Troxclair abstaining. 9-0-2 is the vote on the dais. That is item number 46. Councilmembers, we don't have have very many things that are left on the agenda. I don't know if you want to try to get through the few we have left, and that way we just come back at 5:30, for those what want to do music, and then proclamations, and then the 6:30 public hearing.

[12:22:54 PM]

But the issues that we have left in front of us, if we wanted to go through them, are the winnebago lane project. Mr. Gedert is here. I think there might be a straighter line on that today than there had been in the past. And that would be those three issues. We also have an eminent domain acquisition to approve. And that would leave us, then, with the council transition committee things. My recommendation would be that we try to push forward here if we can. So, let's call Mr. Gedert. Why don't you take us through where we stand with respect to items 36 -- I'm sorry, 38, the resolution from the mayor pro tem, as well as 44 and 45. Let's pull those in front of us. Mayor pro tem.

>> Tovo: And mayor, at the appropriate time, I have what I regard as some, kind of, compelling photos and video, if the council would be interested in seeing that.

>> Mayor Adler: Okay. Do you want to do those first, or should we have -- Mr. Gedert, why don't you frame, if you could for us, today, what your thought is?

>> Yes, bob gedert, director of Austin resource recovery. We have three items here, 38 from councilmember tovo related to 44 and 45, the sale of the winnebago site and the financial transfer of fund if the land is sold. I seek council direction on the land sale. I believe that 38 might be more appropriate to discuss before we get to that item, because it may determine the pathway for 44 and 45.

>> Mayor Adler: And vice versa, as well.

>> Yes.

>> Mayor Adler: Part of the discussion on 44 and 45 may inform the debate on 38.

[12:24:55 PM]

>> Yes.

>> Mayor Adler: Okay. And mayor pro tem, if you have something that you want us to see, do you want to do that now? Here's the question for me. I am supportive of the hub. And it's an idea that I would very much like to see the city pursue. There are some questions with respect to the business model associated with that. There are some questions as to whether or not it is in competition with some private development that's -- or not. Whether they're in the same areas, or related areas, or different areas. So I would like to see the hub idea pursued addressing those issues. One of the ways that you were financing the hub was with the sale of this property.

>> That's correct.

>> Mayor Adler: The mayor pro tem, with her motion number 38, is suggesting that we investigate and consider an alternate use for that property. It doesn't direct it, it says we should consider it. The concern I had was, stopped to consider that, I wanted to know if by doing that we were putting the hub in jeopardy. So could you answer that question for me? If we were to pause on the sale to take a look at the use, do we put the hub in jeopardy?

>> I believe we coupled these issues, the land sale to the hub, because only for the financing mechanism of the hub. The winnebago site is not related to the remanufacturing hub except for it being part of the financing mechanism. If it is the desire of the council to sell the parcel of land, that allows us to proceed with the other financial package that's been presented through several council memos. If it is the will of to the city council to not sell the property, it does not derail the hub, but it does require us to come back to council with a different financial package -- a different approach.

[12:27:05 PM]

That may mean a scale-back of the project. That may mean an alternative financing mechanism that we haven't discovered at this moment in time that we've had a lot of discussion. So I've heard the council discussions over the last couple months, and I am seriously looking at various different options, including the rfp concept, as well as other financial mechanisms. I desire to meet with Eda next week, the economic development administration, and explore some options there. So, in councilmember tovo's resolution that she posted on the council board, it indicated potentially that we come back on February 25th. I can honor that request.

>> Mayor Adler: Okay. And I think the other thing to balance was, if you're going to finance it in a different way to look at financing options that did not include something which resulted in an increase in the fees --

>> That's correct.

>> Mayor Adler: Shown on the utility rates.

>> Yes.

>> Mayor Adler: Okay. Ms. Gallo.

>> Gallo: I have a question on the hub location. Where is the hub proposed to be?

>> Yes.

>> Gallo: Sited, and is it a property that the city already owns, or is it a property you would be purchasing?

>> It's a property that's fully owned by the city. It's the former fm812 city landfill. The city landfill was closed by city council in 1999. We are going through the process of final cap and closure of the landfill portion. The hub is located on reserve land not associated with former landfilling. It's virgin land that was never touched. And potentially future landfill space. But by order of city council, no further landfilling at that site. And so we've been looking for an alternative use of that site. And in 2010, 2011, through a lot of citizen meetings, the discussion that was brought forward to city council in December 2011 was a master plan that included that site to be reused into an ecoindustrial park.

[12:29:16 PM]

And we've relabeled that the Austin manufacturing hub. So it's fully owned city land within the city of Austin energy limits.

>> And approximately how many acres?

>> Approximately 107 acres.

>> Gallo: And are there any other uses that would be opportunities for that land if we didn't do this?

>> We've explored either use. It's generally not used at this moment in time. Again, I refer to the public meetings from 2010-2011. There was various different ideas -- tossed on the table. The direction we heard was, utilize the land to support the zero waste mission by supporting recycling industries.

>> Gallo: Okay. And I think this just goes back to the conversation we had on Tuesday where it would be helpful, I think, to have a conversation on how we do that within the city so that all of the city lands that are owned by the different departments, that we have a conversation about how they're being used, what the potential use is, do we keep them, do we sell them, are there other departments that are interested in them. It just seems very disjointed. It probably is not from the department standpoint, but it seems like from a policy standpoint, it just seems like we're making very disjointing decisions on land uses of properties that the city currently owns. So thank you for that clarification.

>> Mayor Adler: We have three people that wanted to sign up here to speak on this issue. Adam Gregory, Michael Whalen, and Andrew Dobbs. Yes. Mr. Renteria. Yes,

>> Renteria: You mentioned in the work session Tuesday that if we didn't pass this lot, this winnebago lot, that the buyer that had a contract was going to walk away.

>> I deferred to Lorraine Rizer on that.

[12:31:17 PM]

>> Renteria: Okay.

>> Lorraine Rizer, directed for of real estate. Yes, councilmember, that is correct. He has indicated that if the council doesn't pat -- pass it today, that he's walking away from the transaction

>> Renteria: And mayor, you know, that's -- I have a lot of concern about that. You know, this -- you know, we reject this sale, we're going to be facing, you know, a possibility that this hub is going to be delayed, unless we can find some money elsewhere. The few dollars that I see here about housing on this empty lot is not enough to be built, so I have a lot, you know, reservation about not going through with this contract where we can sell this lot. You know, we constantly keep doing these kind of things that -- that, you know, is increasing our rates. You know, this money is going to have to come up [lapse in audio] General fund, but still we have a potential to save taxpayers money by selling this lot to conclude this project, and I'm just not going to be able to support item 36. I just -- just not possible, just want to let you know that.

>> Mayor Adler: Item 38? Yes. Mayor pro tem?

>> Mayor Pro Tem: I wanted to ask Mr. Gedert to underscore something he said and then I'd like to invite our financial staff up before our speakers. Director gedert, I think I heard you say that if we turn down the land sale it will not derail the hub because you will work with financial staff for another direction

[12:33:19 PM]

>> I seek council direction, but if it's the will of council to proceed, I will not derail the project. I don't think this single action will derail it. It is a question of finding a replacement of the \$1.4 million if the sale does not get approved. I -- we have had a lot of discussions internally in the last two days and feel like we can search for another option. As I noted in my memo to council, it is my first recommendation for a sale of the property. That is what I bring to council is the sale of the property as one-time revenues to support one-time expenditures, but if that is not the will of the council, I can work in the next three weeks towards a resolution. I am concerned about timetables on it, and I'll work with Eda and meet with them and see what we can do on the time timetable. Mayor Taylor mayor Taylor thank you. And I understand --

>> Mayor Pro Tem: Thank you and I understand you have letters of interest from potential lease holders and I understand you're kind of waiting to see how this resolves before you proceed with negotiations for those. If I could ask to have the revised resolution flashed on the screen. So I did make two changes. This is posted in yesterday's backup, but just to call your attention to the two clauses that were added. One is an expression of support for the development of the remanufacturing hub, and the other is the request that this return to council with multiple options other than rate increases to replace that component. And I'm going to ask pl -- Mr. Canally to talk about what some of those are. But Mr. Gedert, before you leave, if this resolution passes, would that be enough of an affirmation of council to make you feel comfortable to move forward and begin the negotiations with leaseholders or would you still feel like you need to hold back?

[12:35:30 PM]

Because the winnebago sale, as we've talked about is several pieces in your financing package. It also includes two other land sales as I understand aren't yet in progress. So I don't know if this would allow you to move forward and work on the leases or not, but I just ask you that question

>> Yes, my interpretation is that this is a good statement of support for proceeding with the remanufacturing hub. I'm uncertain how to proceed with the tenants if -- we're exploring different options. The letters of interest was to basically prove -- it's a point to proof that there is interest in the property, strong interest from many, many different industries. We do need to go through a formal selection process. I would like to proceed with that formal selection process. One of the options we can explore is a joint public/private partnership on a developer as well, and that's under discussion in the last couple days. But with this statement, that does authorize me to move forward.

>> Mayor Pro Tem: Okay. That's super, because I think you've heard there's at least an interest from some of the folks on the dais to see that move forward. And Mr. Canally, I wonder if you can speak to whether there is -- if we're potentially turning down a sale today, are there financial options out there that could fill this gap? Some that I have asked staff to look into include the white lodging settlement, which was an economic development issue, and I believe what we're talking about here with the remanufacturing hub is -- is beneficial for all kinds of reasons, including from an economic development perspective. I've asked staff to look at the economic development reserves fund to look at the potential of having the general fund acquire this tract, or at least commit to acquiring it if that becomes

[12:37:31 PM]

[lapse in audio] To use this for other options, longer payback periods. I've talked with director gedert about whether as he goes forward and negotiates those leases if they could be set at an amount to cover any kind of repayment, to cover that 1.4 gap if there was some kind of arrangement with another department. This is obviously your area of expertise and not mine, but it would seem that those are some revenues we might consider.

>> Mayor pro tem, with this amendment to the resolution, and as bob mentioned, we have been talking in light of the conversations over the last several weeks at audit and finance and last week as well, in terms of if this was -- if this was passed, we would come back with kind of a framework for some options as directed. And I think they would be multifaceted. Think they would most first obviously look at alternative revenue sources within the city, and I think some of what you outlined could be possibilities. I think we would also look at the -- I think it's appropriate time as this project continues moving forward, which, again, I would -- I would concur with bob that because there's other financial sources that are going to make this project viable -- viable that we will continue to ply ahead of it. The other thing is the appropriate time to look at the overall cost structure. We're still doing engineering on the project, so we

certainly have an estimate of cost but it's the time to look at those right now and see where we are. And thirdly, as bob mentioned, we think it is appropriate. We have had a letter of interest about the the idea of the remanufacturing hub, and we think there is a very valid reason to move forward on a more formal process. And the outcome of that formal process could well include looking at private sector partnerships to help have a financial partner in this effort. That might be the private sector, it might be with nonprofit, but we believe that formal process in itself could help reshape the financial package.

[12:39:33 PM]

And, again, we can work on that concurrently as the engineering continues on the project, so the project does not slow down. And so we've been working with James and his staff to start looking apartment those options. So, again, it would come back with an internal city funds, looking at leveraging the land with either private or nonprofit and looking at the cost structure. So we feel confident we can do all this.

>> Mayor Pro Tem: Appreciate that. And thanks for all the conversations over the last couple weeks.

That's my confidence that we can plug that gap and figure out a way to not sell the tract, but my colleagues may have questions for you as well.

>> Mayor Adler: Do we want to hear from members of the public?

>> Yes.

>> Mayor Adler: Adam Gregory. Is Ryan Hobbs here? Mr. Gregory, you have six minutes. We have three speakers.

>> Thank you, mayor and council. Adam grelgr with Texas disposal system. I want to be clear, tds takes no position on the sale of the winnebago property, but at this point we do oppose to the allocation of the funding for the development of the remanufacturing hub. The actual captioning language of 44 and 45 doesn't mention the remanufacturing hub, but I believe that a reading of the backup memos that you've been sent regarding these items makes it fairly clear that it will be used as approval to move forward with not only the funding of the city's portion of the remanufacturing hub, but also with the sale of additional land at the landfill facility, 25 acres of which is within the permit boundary. There are particularly concerning implications to us in private industry of sale of permitted landfill space. Mr. Gedert has stated that that would not be used for landfilling, however there is a number of things that it could be used for, such as transfer stations and waste processing that could be in competition and could lead to potentially lead to flow control of materials collected within the city of Austin.

[12:41:44 PM]

The reason we're concerned, and we stand by all the concerns that we've made available to you in our e-mails and handouts, is that there are only general statements about this process. And we agree with a great deal of those general statements. We are in the eco industrial park business ourselves, we've not just a recovery operation but we've long planned and engaged in secondary processing and remanufacturing operations. However, the devil is in the details, and the details of this operation are not available now. And given the process laid out by swabbing, -- swac, they don't seem to be likely to be available until they've moved so far forward and we've sent so much money or this that you might be in a more difficult position to -- [lapse in audio] -- Of the hub as a whole. We would like to support this. We believe this is a good idea; however, we don't know yet what it is really. Also the zwak has made it clear to you and it was clear at the meeting when they were voting to approve the sale of the winnebago land, that they were not recommending approval of the expense of the funds on the remanufacturing hub. It was committed to them that they would have an opportunity to make a full review and evaluate and recommend action to you guys, but they haven't -- have not had the opportunity to do that. And I believe the current position of zwak is to hold off on funding until they can do a thorough review.

Throughout this process, we've become concerned about the lack of transparency, about potential flow control. Truly, also whether the staff is way over its head with this project, becoming a landlord, developer and competitor in the development business, and in staff, picking winners and losers in the recycling business.

[12:43:56 PM]

Potential subsidies to these companies could create a drastic issue with regards to the competitive markets that we've invested a lot of money in and many other recyclables processors. Also staff has stated that they're going to limit the potential tenants of this hub to those who have submitted letters of interest, and they've expressed to us the plan not to go through a formal request for proposal. We believe that if we do fund it, there should be a formal request for proposal so the true desire of staff should be made public before -- and that anybody who has a plan or an idea that didn't get a chance to submit a letter of interest should have an opportunity to propose. And that way it could be done in the light of day. Please, if you do approve the funding for the remanufacturing hub, require that an rfp process be a part of -- of that development. In closing, please hold off on approving the appropriation of funding for the remanufacturing hub until stakeholders can be engaged, a real hub business plan can be developed, the business plan that's been presented to you is -- is, I believe, a business plan in name only. It's a general outline that we agree with a lot of the things in it, however, again, the devil's in the details, and those aren't publicly available. We believe a thorough review process could be completed, a properly-worded agenda item that should be brought forward that identifies the hub and there should be a vote before zwak and council to approve the details of the hub before we throw money at it. Then a proper procurement process can be considered to determine how the hub can improve the market without causing unintended negative consequences to businesses like ours who have invested many, many millions of dollars over many years in these types of operations.

[12:46:10 PM]

Not just recovery, but the secondary processing and remanufacturing that's -- that's going on at our facility. I'm happy to answer any questions.

>> Mayor Adler: Anybody have any questions?

>> I do, Mr. Mayor.

>> Mayor Adler: Yes, Mrs. Gallo first then Mr. Zimmerman.

>> Gallo: I want to say thank you for your suggestions, and I agree with you as we strive really hard on this council to address the affordability issues in this community and those are both property taxes and also utility bills, I think we all want to be very, very conscious of spending city money when we have private sector industry that can perhaps do some of the things that we try to do as a city and pass on to our rate payers. And I want to applaud you for the job that you do with your facility, because not only do you help us with waste, but you also really provide a community benefit in how you allow that to be used by the community in nonprofit, so I wanted to -- I always take the opportunity to thank you for being such an amazing example of what can be done. And so thank you.

>> Thank you very much. We're very proud of it and we intend to continue investing private dollars in the exact type of thing that staff would like to invest public dollars in, and I hope you can appreciate the chilling affect on private investment that very general -- generally described public investment in the exact same type of industries can have on that potential private [lapse in audio] Demonstrated history of investing a lot of money in this, and a commitment to maximum diversion of waste from landfill disposal. We do more of it than anybody. And we agree with the concept, we could just like to be more secure in having our concerns addressed before we charge headlong down this road.

[12:48:10 PM]

>> Mayor Adler: Thank you. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I also want to concur with your remarks. Thanks for bringing that up. At the appropriate time, I'm going to ask that we draw our attention to troxclair amendment no. 2 I think that's been handed out, and I would like to make that motion that speaks to his point of how -- when city government and city taxpayers get on the hook for, you know, subsidizing things that the private market could do at no risk and no cost to taxpayers, I think it's a terrible policy direction for city taxpayers to be asked to subsidize something that private industry could do. It's going to raise our costs and raise our risk, so I appreciate your remarks and I'm also opposed to the lack of details we have about the proposal. And I also want to see it come up for an rfp.

>> Mayor Adler: Thank you. Michael Waylon here?

>> Mr. Waylon wasn't expecting it to come up so soon.

>> Mayor Adler: Mr. Date of date of Dobbs?

>> Hi there. Texas campaign for the environment. I want to thank you for your time and say that we are, in fact, strongly supportive of the Austin remanufacturing hub. This is an absolutely necessary piece of our zero waste plan at this point. As many of you probably know or have heard or read or seen our commodity prices for our recyclables are at historic lows. This is a way of adding value to those products and making our zero waste more sustainable while also creating more than a thousand jobs, it's specially directed towards otherwise hard to employee communities. So I think it's an incredible benefit to our community. We are well along in this process, and the term that director gedert used in an e-mail with me earlier this week is 11th hour.

[12:50:12 PM]

We've got to be careful about making decisions that are going to derail this process at the last minute and they're going to undermine this project which is beneficial in ways that aren't just bottom line, not just market oriented, that are things that benefit the community at large. The point of this project is to reduce the barriers of industry for industrial recycling-related industries in the city of Austin. And so it does that. And so that is, in general, a good idea and something that we support. Obviously, if there was a big market for this, we would be seeing it right now. There's not, it's because -- and a large part of that is because of those initial barriers of entry. This is a means of lowering those by offering a place for these companies to operate at a lower rent, as I understand it, than would be otherwise. So this is an important idea. We are incredibly skeptical of any further market manipulations beyond that because we would hate to see a future council decide to cancel that and then you have a bunch of industries that end up folding and that ends up hurting our zero waste more than if we hadn't done it in the first place. So the simple design of this program is something we're very strongly in favor of. If the way to do that is to sell the winnebago property, then that's what we support that. If there are other options, we are definitely in support of that to. We don't care about the means in which this is carried out. We want to see the ends reach, can means we can debate and discuss later on, so far that we can get this thing in time to make sure it isn't derailed altogether. There are two-points that we have very strong agreement with, tds and others here. One is that the deed restrictions on any land sales at this property need to be made public, need to be approved by this council, and they need to be airtight, because this is a permitted landfill.

[12:52:14 PM]

And so despite the fact that -- that staff is -- I believe them when they say they don't want any kind of waste processing there, if we don't have airtight restrictions we could end up with that. The last thing I want to say here is we really do need a public process for deciding who goes into these spots answer not, you know, this is -- you could set a very dangerous precedent. I have a lot of faith in bob get -- gedert and the Austin resource recovery, I love the department. But if we have a situation where staff is looking at a list and saying these guys are in and these guys are out [lapse in audio] -- I'll be happy to answer any questions.

>> Mayor Adler: Mrs. Houston?

>> Houston: Thank you, Mr. Dobbs. Do you have a problem with having a request for proposal?

>> For what aspect?

>> Houston: The hub.

>> I mean, what I have a problem with is if we are going to slow this process down to the point that it's not going to happen, that the thing is going to fall apart. That's not something we're okay with. If we can do that and make sure that the thing stays on track, yes, absolutely we're fine with that. And, in fact, that would be the best-case scenario, I think, because then we could make sure that there's a public process here and we're keeping our eyes on everything, but at the same time, still making this move forward. I -- you know, I defer to staff as to whether or not that's -- whether or not that's possible.

>> Mayor Adler: Okay. Mrs. Pool?

>> Pool: Thanks, Mr. Dvmentdobbs forebeing here. My question may actually be for staff and it's just procedural, because I'm supportive of the remanufacturing hub and hope that we can continue to move forward with it. I was curious, the comments you were making about having a review. Would it be appropriate to send it through the zero waste advisory committee, for example?

>> Which review the review of who's going into that? I'll say staff will have their perspective. From our perspective, that's a great idea, but that should also be probably part of some sort of more formal procurement process that would have reviews aside from and before and after that as well.

[12:54:21 PM]

But that's staff to answer those questions.

>> Pool: And then my question for staff would be how in this process of review, at what point could we slot something like that? Looking at the business plan and the proposal itself when we go out to choose who would come and be part of the remanufacturing hub?

>> Yes, bob bob gedert, director of Austin resource recovery. It's standard practice for us, if an item is going to council, that exact item will be reviewed at the zwak for recommendation. The remanufacturing hub has gone through several council adoptions of cip funding, so there's been some funding authorization in the past. The rfp that's being discussed, that would need approval of council, and therefore standard practice recommendation from zwak.

>> Pool: Thank you.

>> Mayor Adler: Okay. Yes? Mrs. Tovo?

>> Mayor Pro Tem: Mr. Gedert, while you're here, I apologize for changing the subject here, but I'm trying to look at the late backup question and answer in addition to the other questions and answers. You talked about the fund being under its approved balance because of some of the unexpected expenditures, however the late backup we received sounds like you're going to get reimbursement for those expenditures. So as I see it, the memorial day estimated debris removal in the amount of 290, you're expecting, if your claim is approved, to get back 237,000 from FEMA. The other is Halloween 2015, you're expecting -- it cost 175, your potential reimbursement is 131. The landfill damage -- and the landfill damage, I'm particularly calling out, because in the earlier question and answer, it talks about

needing to use the ending balance and reserve to repair the landfill, but there's no mention of the fact that there may be a rebim -- reimbursement from FEMA.

[12:56:27 PM]

As I see it, you may get up to \$1.5 million from FEMA for those expenditures that have eaten into your reserves. Is that correct?

>> It -- yes, with a little explanation. FEMA reimbursements are somewhat of a guess, somewhat of an educated guess. The difficulty -- we have three floods in the last two years that have provided extraordinary and unexpected expenditures on the department. The most devastating was the destruction of some rainwater collection at the -- at the landfill. And that easiest mated to be about \$1.5 million repair. It is unknown to us whether we're being reimbursed by FEMA on that. On the onion creek and the memorial day flooding, we -- that was neighborhoods that we serviced, and the question on FEMA reimbursement is labor expenses, overtime, disposal fees. Some of that is a known reimbursement, but there's still an unknown on how much labor is to be reimbursed. So we offer our best guess on the reimbursement. It is correct that we have expenditures with substantial reimbursement, but not 100% reimbursement.

>> Mayor Pro Tem: Sure. By the way, I appreciate that. I think you and your staff pads families right away, so I appreciate all your work. But, again, just so my colleagues are aware as we're evaluating this, some of the money that was cited in one as drawing down that balance is expected -- at least as you said, not 100%, and it's an estimate, educated guess as you said, total about 1.5, and that's the late backup items 37 and 45. I think it was distributed either yesterday or this morning. And I apologize for it not being in the regular Q and a, but as we get answers, sometimes that generates more questions and that's the dialogue that's been going on.

[12:58:38 PM]

Thanks.

>> Mayor Adler: I may have misestimated time on the amount on this. We have one more speaker that I was going to let speak and then probably we need to break for lunch and then come back. Mr. Waylon, you want to talk?

>> Sorry about that. Y'all caught me off guard working hard today. Michael Waylon on behalf of tds. I just wanted to make three or four-points with regard to no. 44, the budget amendment. Tds as you've already heard have a position with regard to the sale. We really do believe this needs a full stakeholder evaluation. I know that Mr. Gedert and Natalie -- excuse me, I don't know her last name, shame on me -- went out to echo industrial park that exists at tds. It's 200 acres. There is an 8,000 square foot artist workshop there. I know that mayor pro tem tovo is interested with regard to the sale of the land for that purpose, but one already exists out there. They have as you know 107,000 square feet of material recover facility, gardenville is there along with the restored decor, where they rehab things and make barbecue pits, cactus and other items for sale. They're also working now on glass, using glass to make pavers and other items for commercial use. So I think the model exists, and I think one thing that has not happened is a full brainstorming session with Mr. Gedert, with the city, to see is there a way to partner out at this sight with the city. And I don't know what that might look like, but I wonder out loud of instead of investing \$8 million, which is what's going to happen based on a plan that doesn't really have an outline for an roi, is there a way to do this in a much less expensive way out at echo industrial park that already has pad sites, it already has 30 acres of pad sites. Once you vote for 44, you're adding \$8 million to your rate base. It will be there, you're going to have expenses year after year.

[1:00:41 PM]

It's going to put pressure on rates for a department that's already running a \$2 million deficit. So I think there's another way, even the zero waste advisory commissioner, the chair, they unanimously voted that this come back for this full discussion. So at the very least, I'd postpone it so zwak can take a shot at let's have a full discussion about what is the roi, is there a way for us not to add this to the rate base, and perhaps can we do some serious brainstorming on a public/private partnership. I think chair Acuna is the one that sent you an e-mail last week asking that it go back because there was never any decision on no. 44. So that's all I wanted to add. So thank you. There is an opportunity to do some serious brainstorming on a 200-acre site that already has all the infrastructure, including 30 pad sites ready to go. Thank y'all. And thank you, I'm sorry -- thank y'all for the hard work through the lunch hour.

>> Mayor Adler: That's okay. Hold on please.

>> Houston: Mr. Waylon, could you tell us where that site is located?

>> It's next to the creedmoor site out in creedmoor where Texas disposal system is located. 1327.

>> Houston: Thank you.

>> Mayor Adler: Okay. It is 1:00. We have to finish this issue, we have the floodplain issue, the buyout issue, and potentially the transition issue. It's 1:00 now. Do we want to come back at 2:00? Okay. Then we'll come back at 2:00. We stand in recess. I'm sorry what?

>> Mayor Adler: Before we leave, we had three items that were set for possible discussion in executive session, and I don't know if people want to meet back there. The three things that we had set in executive session were the.

>> Open government, which we're not going to do.

>> Mayor Adler: Open government, then we had two more.

[1:02:41 PM]

>> We had, again, to talk about the item 52 which is the legal issues related to the potential election in may 2016, and then councilmember tovo had asked for a real estate executive session but I don't believe she needs it anymore.

>> Mayor Adler: So noticed on here was the discussion of open government -- [lapse in audio] The election issue would be the initiative issue. Do we want to meet in the back?

>> [Inaudible speaker]

>> Mayor Adler: All right. Do we want to do that? Does anybody want to.

>> Mayor Pro Tem: So mayor, I would say I scheduled that out of an abundance of caution, but I would say that I'm comfortable not having an executive session, but with the understanding that if people have questions about the real estate contract or other potential contracts or things of that sort, that does seem to me to fall into the real estate executive session privilege, and I would ask at that point that we stop our conversation and head to executive session. But that may not be necessary for today.

>> Mayor Adler: We can certainly do that. Let's meet back here at 2:00. We stand recessed

[1:23:53 PM]

>>> >> >>>

[2:21:54 PM]

>> Mayor Adler: Are we about ready to pick this up where we left off? Mayor pro tem?

>> Tovo: Thanks for letting me show a few slides. I guess mayor pro tem would it be appropriate to make a motion at this point before the slides?

>> Mayor Adler: Yes.

>> Tovo: So I would like to -- I think the order in which it makes the best sense to proceed would be to --

>> Mayor Adler: I think that your motion for 38 would ask for additional research to be done. It would then make academic the remaining items. So let's start with those.

>> Tovo: On item 38.

>> Mayor Adler: Okay. It's been moved on 38. Is there a second? Ms. Garza seconds that. Okay.

>> Tovo: Are we going to take questions first or do you want me to show a few slides?

>> Tovo: I've never done this before. So -- I don't know, probably three or four times at this point including -- well, let's see. And some of these are different trips so let me just say that some of these are a little dark because they are from a time where it was -- where dusk was falling. What we are -- so the -- [inaudible] Turn on Burleson and then Dawson. You have the approach and the intent of the video is to show I think there were all kinds of industrial [inaudible] And this gives a sense what this is.

[2:24:06 PM]

Obviously the zoning would all have to be explored. I shared the concerns and expressed them on particular zoning cases that there are residential uses apart from industrial uses. And certainly I would expect the feasibility of proposal 38 to include a consideration for current uses in that immediate area, but that gives us a sense, there are mature trees, office-type industrial. And then the rest are images. Sorry. I promised this would be fast. I know it's not so fast. Okay, so this gives a sense of where the tract is. This is the tract, the caption covering it, but right here and it looks to me immediately adjacent or perhaps there is a sliver of an easement. We'll need real estate to help us with that, but there's some kind of separation in the tract and what our single-family residences immediately behind this tract. You'll actually see them. When we walked the site yesterday we were able to get some shots from the tract to the single-family.

[Inaudible] This is the site, these are the uses across the street. You will see an office building immediately adjacent to it. Here is a different shot of it. On the other side of the tract is a lumber yard and I think that's something that should be explored with feasibility. It appears that it is just a lumber yard and a grain elevator, thank you, forgot the term.

[2:26:08 PM]

This is the most immediate neighbor. This is a railroad spur that runs down the lane through the property of the winnebago tract. These are just shots of the tract. This is from the back portion of the tract. This is in a very small grove of trees that seems to run at the back of the property between the back of the property and the single-family neighborhood to its rear. I'll rely on real estate to tell us who owns that. It's just not immediately clear. And you see an accessory dwelling unit being built. Again, this is a shot from the winnebago tract. And this is just a similar map just showing you again where some of those shots were taken from that are about to follow. This is the neighborhood immediately adjacent in the rear. This is the grove that runs at the back of the winnebago tract and the single-family neighborhood. This is the railroad tracks. The spur that runs along the side. Then we have a couple quick films. This the is area to the rear. Looking back at the neighbors. Some issues with the person filming. Who may not have a future as a filmmaker. But again, just in case you haven't been out at the tract just to give you a sense. And this is the area in the rear. These trees are not characteristic of the lot generally. But could be interesting if this were appropriate for a mixed use project that included residential.

[2:28:12 PM]

It's kind of neat to have this tiny little grove of trees in the back. Is can envision lots of happy hours for children who might live on that site. Surveying the tract with its neighbors on either side. And I will say I think there's a sliver of property between the lumberyard and this -- and the winnebago tract that is owned by, as has been mentioned, the potential buyer of the winnebago tract. So the resolution before us is not suggesting that this is absolutely an ideal tract where there could be residential. We've had a lot of discussions I think at the council level both as our council and the prior council about when it might be appropriate to consider changing an industrial zoning and when it might not be. I think this tract really has some potential for consideration as a residential mixed use project. As I mentioned last week the industrial zoning, commercial uses could be very appealing to possible residents who would use it to do their art. And I think especially since there is a proximity to residential this -- I have no idea to turn all this off so I apologize for having this pop up. Happy to answer questions, but I hope you all will consider at least the possibility of exploring this with the resolution before us.

>> Mayor Adler: Thank you. Now questions. Mr. Renteria.

>> Renteria: I still have a lot of problems putting a residence -- residential housing in L.I. We just went before a case on shady and 7th street, if you drive down 7th street, you look at the texaco or whatever they call themselves now, where they store all that oil that they sell for commercial.

[2:30:23 PM]

You also have an a bc auto parts store there. You know, and if we're going to deny residential use next to an L.I. On shady lane, we're proposing to build housing next to all this industrial area. You know, that's a big concern to me because, you know, they tell -- they are saying that we wouldn't couldn't have that property there on 7th and shady for housing but now we can do that here for housing on LI and I wonder if the neighbors there realize when we start push residential area, they better be very alarmed because we're going to end up moving into that area residential. And having them move out of that area where we have commercial businesses have been closing down on 7th street. And a lot of this motor oil, auto parts. We're having all these kind of businesses closing down in east Austin and moving out and [inaudible] Best to do away with all these LI. We're telling them go over there and -- LI area. Just want to let people beware what we really are doing here.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you. I'd like to speak against the item here. I concur with what councilmember Renteria has already said and I think moreover we -- we need to get a lot of these properties that the city of Austin owns that are sitting idle and they are not contributing to the tax base, and by selling this property we put another piece of property back to use and we start getting tax revenue back from the property.

[2:32:25 PM]

So I would also just like to call on the mayor and my colleagues here to consider some program to review all the property that Austin owns that is sitting idle. You know, hundreds, probably hundreds of pieces of property, some of those could be useful for, you know, art space type projects, but we have a buyer for this piece of property and we're ready to close on it. It's already been negotiated and discussed so I'm going to be voting against it. Having nothing to do with art space just we have a deal and we need to get property back on the tax roll. I'll be voting no.

>> Gallo: And I think some of the discussion, maybe staff has presented this to us before, but the property has a commercial-type zoning which to me would indicate a higher value of the land than if it were zoned residential. So are we -- are we maximizing the potential of that property if we don't sell it as commercial when it's zoned commercial and use it for residential when we might be able to find other properties. I think the art space -- let me back up -- is a wonderful idea. The creative culture in this community is really impacted by affordability and we will continue to lose our creative residents if we don't begin to address the affordability issue in this community. But my concern is the maximum ability to help protect the citizens of Austin from our spending and our taxing purposes. And so if this property is zoned industrial, it would have a certain value, which is indicated by the purchase price on this, but if it were zoned residential what would the value be. And my guess is there would be a pretty different gap in the values between those two uses.

[2:34:27 PM]

And so that would be one of my concerns on this. And then I also want to just mention that I'm going to continue to talk about the workforce affordability desert west of mopac. We keep looking at sites that are not west of mopac to promote and produce our affordable housing, our workforce housing, and we need to have an equity there so that people can actually live close to where they work. And there may be some other developments that are looking at affordable housing options that art space could go into that would be in a different location but still in the community. I think we need to find a way to pull that into if community. I think it's a great idea but I'm concerned we're not maximizing the potential value of this property if we use it residentially. So maybe you could address that if you feel like from the real estate standpoint if this property were zoned residential instead of commercial what the difference in value would be from a selling standpoint.

>> It probably would be less. It would depend -- it's hard to say at this point because I don't know the density since it isn't zoned residential. And there's some buffers and easements on it and so -- but more than likely for the number of units you can get on the tract the industrial use may be the higher [inaudible] Of the property.

>> Gallo: Thank you. One other question too, we've talked about the contract. Does the city suffer any financial penalties for not performing under the contract if we don't complete the sale?

>> No, we do not.

>> Gallo: So there's no penalties for the city walking away from the deal.

>> No there's not.

>> Gallo: Okay. Thank you.

[2:36:33 PM]

>> Pool: Describe the procedure for putting city-owned land on the market. I think we have some steps and a systematic approach that was put together a couple years ago. Maybe you could describe it for us.

>> Yes, councilmembers. We have an approach that we go through. In step 1 was that we sent the council a -- there were several properties on there, maybe 20, that was to give council a chance to comment. At that point in time if there's nonprofits or other uses I'm notified. The next step is I went to all the different departments and checked to see if they had any uses including housing. They indicated that this was not the best tract for a residential use. No other department wanted this tract. We also had it within those departments we checked for rail line, we went to some of the different committees that are involved in imagine Austin. There's about 25 that had chance to comment. We went to the school district, the county, the state to see if they had any use for the property. They had no use for the property. We put a sign out on the property. We also sent out postcards to all the neighbors when we

were talking to the neighborhood in the past. They indicated where those trees were that they did want to keep those trees and they wanted a buffer so we expanded the buffer from 100-foot to 150-foot on the property. And we also went out and advertised in the paper. We advertised on loop net and then went out with the rfp process. So we went through an extensive process through the different committees and things to try to identify a use for this property.

[2:38:38 PM]

>> Pool: That process that you went through developing that systematic approach, was that something that was also the result of a stakeholder process to set up the city would go through when identifying unused city property?

>> Yes, councilmember, we had a direction from council to look at the process so we had stakeholders come in that included bankers and citizens and different nonprofit groups and we all came in and met and came up with -- we also had speak up Austin and different ways for people to give us input. And then we came up with a process and that's the process that we used in the sale of this. But we incorporated all the suggestions including when we send out notices people -- there was a request that we send it out to people

[inaudible] Utilities and not property owners on the tax roll because there's a lot of renters in the area. We even expanded our contacts to make sure that we had stakeholder engagements.

>> Pool: How long ago was that process put together?

>> I believe that was two years ago.

>> Pool: Okay. So the point that I wanted to raise was that we do -- there were questions about whether the city had a process or a procedure in order to analyze property that we own and determine whether it should be sold or otherwise put to a different city use. And I -- like we have a pretty good approach to analyze property that the city owns and so the determination whether to offer it up for public sale or swap it inter departmentally is something that is carefully analyzed and the decision that is reached is carefully reached.

[2:40:43 PM]

>> That is correct.

>> Pool: At least that was the intention.

>> That's the intention, and also to what we said with the stakeholders as well is that the next time we had a property for sale we would go through this process knowing that we would tweak the process along the way.

>> Pool: Thank you.

>> Mayor Adler: Thank you for that discussion. Ms. Troxclair.

>> Troxclair: So I think councilmember Zimmerman had moved by amendment number 1 earlier, but I will second --

>> Mayor Adler: He said he would like to, but he didn't get the chance. I'll let you do it if you want to.

>> Troxclair: Okay, I will.

>> Mayor Adler: Which one are you moving?

>> Troxclair: Number 1.

>> Mayor Adler: Ms. Troxclair moves amendment number 1. Is there a second to that? Councilmember Zimmerman seconds that. Ms. Troxclair.

>> Troxclair: I think that art space is probably a great organization and maybe a partnership with them is the -- is a great use for this property if we're not going to sell it, but I think it's only reason that if we're going to ask the city manager to come back to us -- or to go explore a partnership with art space that we

don't necessarily limit it to art space. I would be curious in having other information from him about other ideas that city manager might have for the highest and best use of this space and to know if there are other organizations out there that provide live/work projects for the creative community other than art space that might be good city partners. I am really hesitant to limit when we really haven't had a discussion about -- well, I'm just hesitant to limit this decision specifically to art space at this time and I think although this amendment still includes them and doesn't prohibit the city manager from working with art space, I think that it would allow us to make a more informed decision once we have the information back.

[2:42:58 PM]

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: Thank you for the -- for the amendment. The concern I have is that we have a buyer now and the buyer says that the end of this month, and you are saying that the city manager should come back with some recommendation by March 3rd.

>> Troxclair: Actually that is -- the only part that I'm changing is the part that's in red. The March 3rd was originally included in mayor pro tem tovo's solution.

>> Houston: Okay, so could I ask a question? If the March 3rd is in the resolution, what does that do to the sale of the property to the [inaudible]?

>> Councilmembers, the -- the buyer originally had said that he would wait till February 28th, but after all this discussion he has indicated to us that if council doesn't pass it today he was going to pull out of the deal. He put up 10,000 earnest dollars that we've been holding since October and that's a concern for our continued delay.

>> Houston: Thank you.

>> Mayor Adler: Yes, Ms. Troxclair.

>> Troxclair: I was going to suggest to councilmember Houston if she wants the city to move forward with the sale she should support this amendment and vote against the resolution as a whole if that's your intention. So that if the resolution does pass, we at least have more information on March 3rd.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. Just to say what councilmembers said, I agree. I'm going to be supporting this amendment but then voting against the amendment as amended.

[2:44:58 PM]

Because I do agree it's a better use to sell the land, but if we don't sell the land I like how this amendment kind of moves us forward, provided we don't sell. That's why I'm supporting the amendment.

>> Mayor Adler: Mr. Casar.

>> Casar: Mayor, unless there is more clarification, I would be happy to hear it. I don't think I'll support the amendment because my understanding is city staff and city management have looked up what they think is the best use of the property and their recommendation is to sell it and if we as a policy decision choose not to the ball is sort of in our court about how to move forward from there. And so I -- I don't quite see the added value to that. However, I will indicate that I see your point, councilmember, about working specifically with artspace as if we choose to move forward on the site, a variety of other nonprofit developers might be able to combine artspace and affordable housing. However, I don't real the mayor pro tem's solution as we're going to develop this land with artspace specifically the nonprofit developer, it just says explore the feasibility and there is somebody that could probably help us to do that. If we get to the point choosing this land could be used for that use, I may be convinced that we

work specifically where this particular group or I would be very open to hearing arguments about putting this up for rfp or rfq for development. But I don't think that that is sort of decided in the mayor pro tem's resolution that they are going to be the ones building this unless I hear otherwise. If,

>> Mayor Adler: Ms. Gallo.

>> Gallo: I have a friendly amendment to the amendment and it would be for the first be it resolved and this is from some communication we had from industry. The first be it resolved says that the city manager return to the city council on February 25th, 2016 with multiple options other than rate increase to replace the component of the manufacturing hub financing plan currently proposed by the sale of the tract located at 4711 winnebago.

[2:47:11 PM]

I would add to that and to recommend an industry and community stakeholder process to evaluate the options prior to those options coming back to the council for a vote.

>> Mayor Adler: Say that again, please.

>> Gallo: It would be added to the very end of the first be it further resolved and say and to recommend a industry and community stake hold process.

>> Mayor Adler: Stop for a second.

>> Gallo: And community stakeholder process.

>> Mayor Adler: Okay.

>> Gallo: To evaluate the options. Prior to the options coming back to the council for a vote. Or we could say prior to the council voting on the options. So the options could come back, but we would want a stakeholder process to occur prior to the council voting on those options.

>> Mayor Adler: Prior to council consideration.

>> Gallo: Uh-huh, yes.

>> Mayor Adler: Okay.

>> Zimmerman: I'll second.

>> Mayor Adler: It's been -- both a second and the amending person are okay with, doesn't belong to them. Does anybody have an objection to that amendment being added? I'm sorry?

[Inaudible]

>> Mayor Adler: Her digs.

>> Garza: I mean what I'm hearing is folks are concerned about the time line of this project and the way I read mayor pro tem's resolution is it's just starting -- it's like the very official phases of seeing if it's even feasible to do this here. And my concern would be if we're directing the city manager to start a community stakeholder process which involves an entirely different process which involves reaching out to the neighborhood, reaching out to industry folks, to me that's a second step because if the city manager comes back with a report that says we can't do this here, then we've kind of -- I feel like we've wasted city resources in adding the second step.

[2:49:33 PM]

I just feel like that's a little premature. This resolution in my mind is only askings to see if it's feasible for this and council Renteria explained why he doesn't think it's feasible and he might be correct and that might be what the city manager brings back to us. This is not feasible in the industrial zone area. I just feel adding this is creating more work and a little premature because we might get a report back that says we can't do this here.

>> Mayor Adler: Okay. I'm going to take Ms. Gallo's amendment as being moved. The amendment to the amendment. Is there a second to Ms. Gallo's amendment to the amendment?

>> Zimmerman: I second that.

>> Mayor Adler: So we are not considering whether to add the words that Ms. Gallo suggested a moment ago. Mayor pro tem.

>> Tovo: I want to talk to the general amendment too but I'll confine my comments to this. This would seem -- to attach a stakeholder process to the financing options that the staff have been asked to bring forward as I understand it, right, attaching it to the first therefore be it resolved. The intent of that whole clause in my resolution is to make sure that as a council our staff with the direction that we support the project, want it to move forward and that we want them to come back with financing options to close the gap that would be created by turning down the sale. We will throw it off track if there's a stakeholder process in between us and those financial options. That would be my concern. And so I will not be supporting that addition in that place if it's happening between now and February 25th. If there's going to be a community discussion about the remanufacturing hub, you know, that could be very helpful to our staff in helping -- if that moves forward, but I don't want a stakeholder process to be between us and the financial options.

[2:51:37 PM]

>> Mayor Adler: You know, and I apologize I have messed this up because I let an amendment to an amendment happen when it really wasn't an amount to what Ms. Troxclair was doing so I probably shouldn't have done that yet. I'm going to hold that thought. We can come back to it because we really need to consider Ms. Troxclair's language first. It's what's shown in amendment number 1. This is what we will discuss and we can make amendments to this section for right now. But that's what pending and I apologize for that. Mayor pro tem.

>> Tovo: I would like to speak to the amendment that's been proposed. I appreciate -- I appreciate the questions that people have raised. They are important and I think we should address them if we are in a position to move forward to consider using this tract for some kind of public purpose which my resolution contemplates. I would suggest, you know, what is before us today is not entering into financial commitment with artspace, it is not rezoning the property, it is about taking this time between now and March 3rd to explore whether it would even be feasible as councilmember Casar said with an organization that has tremendous experience in this area, including working with difficult, challenging tracts and challenging buildings. I mean they really are extremely skilled as taking really challenging buildings, vacant buildings and urban areas and other kinds of challenging tracts to -- and I think are a great resource to us. And I just want to point out we've had a relationship with them since 2010 so they are an organization we have gone through the first couple steps with and this is kind of a natural following on that. I agree and will welcome a conversation about how to proceed generally if we decided to a project on this tract, but this is -- that's a ways off at this point. All that's before us today is to explore whether it's feasible. So I think as councilmember Garza said on Tuesday it has been through the process of

[2:53:44 PM]

[inaudible] Between city departments and none expressed an interest. I will say one was fix to go buy it and then the price became, you know, \$1.2 million. \$1 million more than it was initially. I think there are changes we need to our real estate process and I look forward to working with several of you on that, but I think the most -- the most -- I believe that at this point having that one month of focused effort to explore whether this tract is useful for this purpose with this organization really will get us the answers we need at the end of that period of time before we open it up to a more general discussion about all the various uses and all the various intents. And I would like to talk just a very brief minute, I know the

question of industrial zoning continues to be raised. And I have been -- I have raised those questions myself about particular zoning cases that have come before the city. I voted against one over on St. Elmo in a different part of St. Elmo further west because it was immediately next door -- the zoning decision added pda which allowed for residential use on that tract and it was in the immediate vicinity and adjacent to a very heavy industrial use when involved some kind of welding. And I spent some time at the site and it was noisy and I could smell the work and that did not seem an appropriate place to put residences. The previous council voted to allow a residential there in a mixed use project because it felt those surrounding uses could be mitigated. This council, our council voted to rezone a LI tract, limited industrial tract to gr-co-cmcso to allow commercial and residential uses.

[2:55:44 PM]

Councilmember Renteria sponsored and I was a co-sponsor on allowing a contact team out of cycle to initiate a rezoning of an industrial tract in his district along Hidalgo street which will eventually make its way to council. Yes, we have another case that some of us, including -- including I, myself have expressed concern about next to because it's next to what was texaco. I think each of these situations is a little different and we need to consider each one separately. And I believe that's one of the things that should happen in that one-month period to figure out whether this is an area where the industrial uses are not intense but would offer flexibility for those who want to do their [inaudible] In that kind of space, whether the uses are not going to be compatible with residential living. But again I think the fact that there's single-family right behind it suggests that, you know, the uses may not be that intense, but that's something we would have to figure out.

>> Mayor Adler: Ms. Houston.

>> Houston: Mayor, I won't be voting for the amendment or the -- the resolution because I've heard staff say they've been working on this for two years. They've done internal work for anybody that wants to use -- to use the land. They've done external work. Nonprofits, for properties. And the only thing they've gotten is the request from this one person. I'm not sure why we're still here talking about it because it seems they've done all the due diligence to say this property is for sale to the general public. So I'm not going to support either the amendment or for the resolution.

>> Mayor Adler: Further discussion on the amendment? Ms. Troxclair.

>> Troxclair: I wanted to address calm Cesar's question that he raised earlier. Really the purpose of this amendment is number one to see if the city manager's evaluation of city use has changed since the -- since this discussion has been aired and we've spent a lot of time talk about it.

[2:57:48 PM]

If not I want to understand what the next best recommended use is. I'm not ready to -- I don't think that we have the information yet to decide that the best use for this piece of land is a live/work project for the creative community. If that is the best use of this parcel, then I want to understand who the best partner is for the city to do that. And I'm not ready to jump to the conclusion that that's the best use and the best partner is artspace right now. Really is just a simple request for more information. And I understand mayor pro tem tovo's comment that this doesn't commit us to anything, that this just brings -- explores the feasibility, but at the same time if it's not feasible, I am curious to know what other suggestions are. And if it is feasible, I want to know that we -- that we did our due diligence with the other options. Seems like we're making a really big jump from possibly not -- possibly deciding that we're not going to sell the land to deciding exactly what it's going to be used for and who it's going to be used with. That's all it is just a request for more information.

>> Mayor Adler: Any other discussion before we vote on the amendment? Ms. Gallo.

>> Gallo: I have a question about process. Seems like we have a decision to make on the sale of the land. We have this agenda item that talks about the land as if it is not determined that it's going to be sold. And so it just seems like we're putting the cart before the horse here because I would support the artspace, but I may vote to sell the land and so how does that -- I'm just trying to understand how they all connect.

>> Mayor Adler: Three pieces. I took them in this order. One piece is to study whether or not there's an alternate use for the land.

[2:59:50 PM]

The second piece is one that has us selling the land before -- it just has us selling the land. And the third piece is us taking the money from the sale of the land and applying it to the project.

>> Gallo: But doesn't it seem like the vote on selling the land would come first?

>> Mayor Adler: I think you could argue it either way. I mean if you want to sell the land -- whether or not someone sold the land might depend -- the reason do it that way might depend for some people on what happens if you don't. So I'm just looking at it that way. It could have gone either way. I just picked one.

>> Gallo: I'm just trying to unconfuse it.

>> Mayor Adler: We'll get to all three votes. Any further discussion on the amendment?

>> Casar: My last bit is that I generally feel

[inaudible] Councilmember troxclair, but my reading of mayor pro tem tovo's language.

>> Mayor Adler: Those in favor of the amendment. Zimmerman, troxclair, Gallo. That's opposed please raise your hand. The rest of the dais. Ms. Gallo, do you want to make your amendment on the be it resolved clause?

>> Gallo: No, because actually the amendment that I'm interested -- the stakeholder process that I'm interested in is the rehab discussion. I will hold that for the rehub discussion.

>> Mayor Adler: We're now back to item number 38 as offered by the mayor pro tem. Is there any further discussion on that? Mr. Zimmerman.

>> Zimmerman: Are we back to the troxclair amendment?

>> Mayor Adler: I pulled down the amendment to the amendment.

>> Zimmerman: Sorry. Okay. So we're back to the original. Sorry about that.

>> Mayor Adler: Back to original item 38. Any further discussion on that? Those in favor of item 38 please raise your hand. Those opposed?

[3:01:50 PM]

Houston, Zimmerman, troxclair, Renteria and Gallo. The others voting aye. Pass 6-5. That now gets us to items 44 and 45. I told Ms. Gallo we would vote on that.

>> Tovo: Mayor, where we calling those up? If so I have a motion.

>> Mayor Adler: Does anyone want to vote on 44 and 45 at this point? Okay. So do -- I'm just checking. Do you want to make a motion, Ms. Gallo.

>> Gallo: I'm confused. Why would we not be voting on 45 -- bring 44 and 45 up to discussion.

>> Mayor Adler: We just directed -- there's no reason not to. The question was asked. It was an innocent question.

>> Gallo: No, no, I --

>> Mayor Adler: Would anyone like to move we sell tract 45. Mr. Renteria so moves. Seconded by Mr. Zimmerman. The motion is on the floor now to sell the land. I don't know if that was 44 or 45. 45 is the one to sell. 45 has been moved. Does anyone want to discuss that? Yes, mayor pro tem.

>> Tovo: Mayor, I'm not going to support the sale of the land, but I would move the following amendment. Or a substitute motion. Is a substitute motion to turn it down in order? In the event we sell the land, it's my understanding there have been multiple grandfathering requests in this area and that the grandfathering claims have -- are claiming entitlements back to 1967 and I believe as a general practice this city, one, should really consider hanging on to its public lands, but if it is to sell them on the open market that we should make sure that any development that occurs does so in accordance with our current development code and our current regulations.

[3:04:10 PM]

My amendment would be to add the following clause to the deed or the purchase and sale agreement which would state subsequent development of the site is subject to city regulations in effect on or after the effective date of the sale. This was part of the Q and a for our last council meeting. I make that amendment, but I don't intend to support the sale of the land. Any, I offer it as a friendly amendment to the maker of the motion.

>> Mayor Adler: Do you want to accept that amendment? So it's been -- [inaudible]

>> Mayor Adler: Do you want to accept that amendment?

>> Renteria: I'm just curious, do you know --

[inaudible] I'd like to find out what [inaudible].

>> Councilmembers, there have been other tracts in this subdivision that have applied for grandfathering dated back to the subdivision of the tract. And basically they have done that. We've contacted them to see why they did it and it was to -- at the time the subdivision was platted, there was no tree ordinance. So it gets them around the tree ordinance. When we advertised it for sale and the land plat and appraisal, it all was based on the current zoning as of today.

>> Renteria: I have no problem, mayor.

>> Mayor Adler: Does anybody have an objection to that amendment being brought on? Hearing none --

>> Zimmerman: I have an objection, Mr. Mayor.

>> Mayor Adler: Okay. Then it is moved by Ms. Tovo. Does anyone have a second to the mayor pro tem's move? Miss pool. What is before us is adding an amendment that says if we opt to sell the property, it sells with the subject to the rules that exist today. Any discussion? Mr. Zimmerman.

[3:06:10 PM]

>> Zimmerman: Thank you, Mr. Mayor. I would like to speak against this motion. This has been a point of contention not just in Austin but in other metro areas regarding zoning rights, property rights. Chapter 245 of the government code has been written for this for people to maintain property rights. I guess you could call that grandfathering. Another interesting fact is if you look at the statistics of these chapter 245 claims, most of the other metro areas, San Antonio, for instance, generally grant over 90% of these chapter 245 claims. Austin is something like 30%. So to me it's an invitation for lawsuits and I think this amendment will posteriorlyly posteriorlyly -- posteriorlyly invite lawsuit because I think the intent of the amendment is to bypass chapter 245 property rights. I'm going to be voting against the amendment.

>> Mayor Adler: Did I understand correctly that you said in the contract that's penning on this property, it was limited to the ordinances that exist today?

>> Yes [inaudible].

[No mic on]

>> Mayor Adler: I'm sorry.

>> We didn't know that there was these other issues so at the time we sold it but in a contract we were saying you had to follow the current city code.

>> Mayor Adler: It's part of existing contract.

>> It's our standard language.

>> Mayor Adler: I understand. Any further discussion on the mayor pro tem's amendment?

>> Gallo: May I get a clarification. So her amendment would not be counter to the contract that we currently have on the property.

>> Mayor Adler: Ms. Riser shakes her head yes.

>> Gallo: Legal, is that --

>> Mayor Adler: She would know -- there is nothing improper about a property owner saying I own a piece of property that's grandfathered.

[3:08:17 PM]

When I sell the property I deed restrict it or limit --

>> Gallo: It looks like legal is talking. I want to make sure they didn't want to add something. So we're good.

>> Mayor Adler: We can sell a piece of property that we own and limit it to the ordinances today. Is that correct?

>> Yes, that's -- Ms. Riser said that's the language in the contract.

>> Gallo: The contract that we're talking about would take the amendment, the amendment would not affect the contract that we have today. Okay. Thank you.

>> Mayor Adler: Any further discussion? Those in favor please raise your hand. Those opposed?

Zimmerman voting no, the other aye and troxclair abstaining. We are now back to item number 45. The sale of the property.

>> Casar: Mayor, just a final comment. I just want to note that I really appreciate getting a chance to work with director gedert in this last year. He and I bumped into each other on accident at a neighborhood meeting where folks talked to me after the meeting for a long time about how much of a vision he was pushing for the city and I think that this -- this idea of economic development paired with zero waste is a visionary idea and I look forward to working on it, but I also appreciate the mayor pro tem keeping her eye on this property for potentially doing something great with it too. Thanks for helping us figure something out.

>> Mayor Adler: Okay. I'm going to vote for this on the strength of Mr. Gedert's earlier comments that voting no -- voting no to this and to 44 will not take the hub off track. And I'm excited about some of the other options to -- that you'll be considering coming back for. Any further discussion? Mayor pro tem.

>> Tovo: One final comment. You have multiple planning documents that suggest using our public land for affordable housing in addition to other community benefits, and I think with each sale we need to ask ourselves very carefully what other uses exist.

[3:10:24 PM]

We can't continue to have planning documents that offer us ideas and strategies and never implement them and this is an opportunity to potentially do so. I'm going to obviously vote no.

>> Mayor Adler: Ms. Houston.

>> Houston: Could staff tell me how many pieces of public land have we sold in the last two years?

>> Zimmerman: And if I could add, how many pieces of property do we own and how many have we sold?

>> Good question.

>> Zimmerman: Do you need a calculator for that?

>> No. We've probably sold under eight pieces of property. I'm trying to think through the last few years. We own over 30,000 pieces, but that includes strips of right-of-way and we had identified and council has a list of properties that identify that they would like to see another use for. That they have no further use at this time.

>> Mayor Adler: Okay. Ms. Houston.

>> Houston: Thank you. I'm going to be voting to sell the property because I think that the staff has done all they could to get somebody interested in buying the property or trading the property, and if we're really want the remanufacturing hub to get started, if that's our initiative here is to try to get that going, this is the most reasonable way to get that to start. If,.

>> Mayor Adler: Further discussion? Ms. Gallo.

>> Gallo: I'm going to vote also for selling the property. I don't know what is going on out there.

[Sirens] The city department has determined that the property be sold. I think we have a buyer that may be paying premium because it's my understanding that they own property close to this property. And -- but vote to sell it is not to say that I would designate the proceeds to go to the hub.

[3:12:28 PM]

I think that we want to look at all the opportunities for being able to build the hub and finance the hub and perhaps do it in a public-private partnership, but I do think that we should support the staff in their determination this property should be sold.

>> Mayor Adler: Further discussion? Ms. Pool.

>> Pool: I'm going to support the mayor pro tem's amendment in order to hold on to the land and investigate because we're asking the city manager to help us work up a plan with artspace. I think it's the shortest distance between those two points where the city owns the land and we want to put affordable housing on that land. And more to the point, live/work space for our creative class. I don't know if that's what the recommendation will be at the end, but I want to give margin and oxygen to that opportunity to let that develop and see what happens. I'm willing to go that direction. I'm a big supporter of the manufacturing hub and I am willing to make this vote because I believe that our staff will be able to come up with some additional gap funding to make up for what the sale might have been on this property because I know that we do have additional parcels of land that the city can also sell. And it never was really only about the winnebago lane site. That was simply a parcel that Austin resource recovery had in its inventory so they were looking at existing resources and not going any wider. I think with creative minds in our financial department and working with real estate and Mr. Gedert we can find a way to close that gap. But I want to support both housing potential at below market rate, significantly below market rate which we can do when we own the land like we've done at Mueller, and find a place for housing our artists and then also working together with staff to find the way to finance the remanufacturing hub.

[3:14:31 PM]

So I'll be voting in support of the mayor pro tem's amendment.

>> Mayor Adler: And actually is the base motion from --

>> Pool: The base motion.

>> Mayor Adler: And it's miss Gallo's motion to sell.

>> [Inaudible]

>> Mayor Adler: Who made that motion? Mr. Renteria. I've done that twice. Councilmember Renteria has moved that we sell the property, moving adoption of item 45. It's been seconded. Those in favor of

selling the property please raise your hand. Houston, Zimmerman, Troxclair, Renteria and Gallo. Those opposed? The rest of the dais. Number 44 I think now is moot because that would be where to send the money if there's a sale and there's no sale at this point. Anybody disagree with that? Ms. Troxclair. In an amendment, my amendment number two, that would have directed the city manager to develop and issue an rfp for the manufacturing hub, I was planning to make that amendment to item number 44. Maybe I should have done it earlier, but I would like the opportunity for us to take a vote on it.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: What I'll do is this. I think the way to do this so that it stays consistent with our posting requirements, and since 44 is moot and 45 has been defeated, if you had a motion to reconsider 38, if 38 was brought back up it can be reconsidered to add this or we could reconsider the other -- there needs to be something for you to attach this to at this point. And I think the way that you would accomplish that would be to find someone who voted on the prevailing side of either 38 or -- 38.

[3:16:43 PM]

Find someone who voted on the prevailing side of 38 and get them move to reconsider in order to be able to add that amendment. Yes, mayor pro tem?

>> Tovo: I have a comment about that. When we talked to financial staff and they indicated that they were going to look at various financial options, it's my understanding that's one of the options they could consider. So I don't feel a need to have this amendment because I believe they are going to look and come back with some creative options, and that is satisfactory to me.

>> Mayor Adler: Let's see if it does that. Is this part of what you would be taking a look at?

>> Greg Canally, financial services. Yes, I think as we outlined earlier before the break, the direction to come back to council with options would include a menu of options. They would be looking at obviously any other additional city resources we could identify, looking at the project costs and thirdly looking at private partnerships through an rfp process. So that is our intent to do that. I could certainly understand -- that is our intent when we come back and report back, we would lay out a framework to approach all three options.

>> Mayor Adler: Thank you.

>> Troxclair: As an rfp would be one of those options?

>> Yes. We've discussed that. We believe that there is various rationale for moving forward with an rfp, first and foremost to look at identifying opportunities for financial partnership. We also think because of the ultimate economic development aspect of this and working with selecting businesses, we think going through a rigorous rfp process is in the best interest of the city.

>> Troxclair: Great. Thank you so much.

>> Mayor Adler: Thank you. Mr. Zimmerman.

>> Zimmerman: Just a point of inquiry quickly. I thought earlier I heard you were going to vote in favor of selling the property, but the vote was five to six, not six-five. It was five to six in favor of selling.

>> Six opposed.

>> Zimmerman: And you did not support the sale?

>> Mayor Adler: That's correct.

>> Thank you.

[3:18:43 PM]

>> Mayor Adler: We'll move to the next item --

>> Gallo: Mayor, so could I ask a question. The amendment I pulled back would include the amendment that included a stakeholder process. I just wanted to understand when you bring something back for

the council that it will also lay out a stakeholder process so that we have that communication before the council is voting on a particular plan?

>> Yes. I always support a stakeholder process, but my concern is timeline. So as we bring back the item to council, we'll consider the timelines as well too.

>> Gallo: Thank you.

>> Mayor Adler: Okay. We're going to move then to item 48 -- sorry. 47. , Which is Williamson creek buyouts. I think councilmember Garza would like to be here for this. What about 49. Is there a motion to postpone item number 48 to February 22nd? Councilmember Garza moves that. Ms. Garza, we are voting to postpone item 48 so

February 22nd: That's the date I had. Do I have the wrong date? Maybe I had it wrong. I'm sorry.

>> Mayor, I believe it the 25th.

>> Mayor Adler: February 25th adds shown on the changes and corrections page.

[3:20:46 PM]

It's been moved and seconded to postpone this to February 25th. Those in favor please raise your hand? Those opposed? It's unanimous on the dais with Ms. Pool off. That takes care of 48. Let's now do item number 47. This is the Williamson creek buyouts. Is there a motion? Ms. Garza moves passage of 45, seconded by Mr. Reason -- 47. Mr. Reason owe '15.

-- 47. Seconded by Mr. Renteria. Is there any discussion? We have one extenuating to speak -- one citizen waiting to speak. Mr. Hirsch, do you want to come address us?

>> Thank you, mayor and members of the council. My name is Stewart Harry Hersh and like most in Austin I rent and I'm here today to talk with you about renters as I have in all my other testimony about floodplain. On January 9th we had training sessions both in rural Travis county and in dove springs for the tenants and owners who suffered from our most recent floods. And one thing is very clear from those conversations. If you were the county commissioners' court you would only be dealing with FEMA dollars and the rules are pretty prescribed and you don't have a lot of latitude in terms of assisting tenants. But you are not the county commissioners, you are the city council. You are not using FEMA funds for these city buyouts and you have more flexibility. That means what you could be doing and I've been urging councils to do this since the 2013 floods, is to look at who the tenant was who lived in the unit at the time of flooding and offer them assistance to move whether their owner is participating in the buyout program or not.

[3:22:46 PM]

When you failed to do that as your predecessors had did and as this council has done so far, then you are leaving the majority of us renters in harm's way because the decision about whether we get helped from moving from a flood is based on what our on the parters do, not based on the risk associated with us. So your choice is clear. I want you to approve this item today, but I want you to specifically in your approval allow tenants who resided in October of 2015 or in October of 2013 at these flood sites who have not been assisted to date because their owners haven't been in the buyout to access those relocation benefits that are part of standard city policy. If you fail do that today as have councils in the past, then I will be compelled to come before you and remind you of the words of bob Dylan. "How many deaths will it take till we know that too many people have died? The answer, my friend, is blowing in the wind, the answer is blowing in the wind ♪." You've endured this once and if you act appropriately you won't have to endure it again. Thank you very much.

[Applause].

>> Gallo: I'm impressed he's so multitalented.

>> Mayor Adler: Further discussion on this item number 47? Garvey a question.

--

>> Garza:, I have a question. I have a question for staff with regard to Mr. Hirsch's comments. I understand we don't have to stay within the bounds of FEMA because it's city money, but if we provide relocation benefits for somebody that was living in the house at the time it flooded and let's say -- let's say they've moved out because it flooded, they moved out. Somebody else has moved in, a new tenant has moved in.

[3:24:49 PM]

If we provided it for the ones that left, then we couldn't provide it for the ones that are there, if the owner decides to sell. So like -- so the example I gave, there's a new tenant there. Now at this point the owner says, do you know what? I'm going to take advantage of this buyout. That renter would not have relocation benefits. My understanding is it's one way or the other. You can give it to the people who were there when it flooded or you can offer it to the people who were there at the time the owner decides to sell. Can you talk through that?

>> Yes, councilmember. If it's city funds then the city could choose to pay both. The problem we have is in predicting the budget, because what happens is as soon as the tenant moves out and the landlord does not want to sell, he moves a new tenant in. And potentially over time it could be two or three tenants, especially if we went back to the first Halloween flood, then we have the second Halloween flood, then we could have several tenants that we're having to buy out. The second issue is trying to find the tenants that might have been in the property a year ago.

>> Garza: So we could ask that we provide location benefits for every tenant that has lived in that house, but -- which I wish we could do. You know, there's a lot that I wish we could do with our budget. But we're already seeing a funding issue now. We don't even -- my understanding is there's not even enough money now to buyout every house we thought we could buy out in this area.

>> That would be a watershed question.

>> Zimmerman: Mr. Mayor, while that question is being answered, could I also ask about the individual prices, if it's \$10 million, 25 properties, my aggie math says that's \$400,000 per property, which is way above the median home price in the city.

[3:27:01 PM]

And does that roll in the relocation benefits?

>> Ms. Rizer will have that question in a second. I think the question was from Ms. Garza?

>> Garza: My understanding from the open space presentation was we don't have enough funding now to buy out every single home that we thought we could buy out. Is that right?

>> That's correct. We have right now to buy these 25 homes, we need \$10 million. And with the previous

[indiscernible] That you gave in June for 38 properties, if everybody say yes on the 38, we only have two million dollars right now so we will need eight more million dollars to buy the 25 if everybody will say yes.

>> Garza: So if we expanded relocation benefits, I guess on an unlimited amount of tenants, the budget would shrink even smaller probably.

>> Yeah. The --

>> Garza: The money available to buy out homes now.

>> The \$10 million includes everything that we anticipate that it will be relocation. If it's owner relocation or if it is the owner doesn't live there, but there is a tenant, it would be the tenant relocation for one tenant.

>> Garza: All right, thank you.

>> Mayor Adler: Any further discussion on this item?

>> Zimmerman: Yes.

>> Mayor Adler: You had a question. Ms. Rizer?

>> Zimmerman: Yes. It was a question about the cost and how does that \$400,000 per property break down into relocation versus, say, the square footage of the property itself?

>> Well, councilmember, that number includes a lot of things besides the acquisition and the buyout. It also includes the demolition, the asbestos removal, the asbestos testing. So there's a lot of things rolled in that 400,000-dollar number.

>> Zimmerman: Okay. I'm sure there's a lot rolled in, but I don't have a way to assess where our costs are going on this. I'm really concerned that this is starting to snowball into something. We have thousands of properties in the city, we've already discussed this, that are in flood-prone areas that have a high water flow rate, not like swimming pool flooding, but river speed flooding.

[3:29:17 PM]

So I don't feel like I have a good way to evaluate the customer -- the taxpayers' value on this. I'm deeply concerned about where this is going.

>> Mayor Adler: Okay. Further conversation on this item?

>> Gallo: Mayor?

>> Mayor Adler: Mr. Renteria?

>> Renteria: I see that we're financing this through our certificate of obligation. How are we paying that back?

>> Deputy cfo. Councilmember, those bonds will be repaid back through the property tax that was the funding plan approved by previous council.

>> Renteria: Thank you.

>> Mayor Adler: Ms. Gallo.

>> Gallo: So I'm trying to kind of wrap my arms around this process, which is fairly complicated, I think. So in September of 2014 as part of the certificates of obligations, there was \$18 million set aside for 70 properties. Am I kind of right so far? I'm deciphering the information you gave us and trying to condense it to where I can get a grasp of the concept. So September 14, certificates of obligation of the total amount there was 18 million set aside for 70 properties.

>> It was \$18 million set aside for everything that was in the 25. It was anticipated to be about 70.

>> Gallo: So 70 properties. And that would be an average cost of \$257,000 for those properties to be paid for with that allocation. And then about nine months later the staff estimated that there would be 63 properties of those 70 that qualified for purchase. Is that how we went from 70 to 63 when we went in June of last year?

[3:31:21 PM]

>> The 63 was when we did this -- the first time we came to the previous council since we had the October 2013 flood we anticipated it was approximately 20 properties and it was going to be approximately about \$20 million. Then we got into also the onion creek, so at the time that council in September approved the \$18 million for onion and the \$60 million for onion, it was already -- we already know that the number was -- we did a lot of surveys after. So the number was reduced owe seven

months later. Sometime after September we knew that the total number was 66 properties. Then council in November of 2014 approved the acquisition of three out of those 66 properties. We bought those three properties and the budget was still okay at that time. Then we came back in June of 2015 with only 63 out of those properties. And at that time we didn't have new appraisals for those 63 properties. We were looking at the appraisals that we have back in November of 2014. When council approved that subset of the 63 that ended being 38 that's when the real estate office began to coordinate with the property owners and the first appraisals came back. And when the first appraisals came back, as soon as we got those appraisals is when we did another analysis how much money do we have today and how much money is it going to cost us to acquire these 63 properties.

>> Gallo: Okay. So I guess my concern is the majority of the funding for this has been from certificates of obligation, which the community in Austin does not have the ability to vote on. That is something that is a council directive and a council decision. And my concern is that we've gone from an 18 million allocation. It looks like the June 2015th for the 38 properties was 15 million.

[3:33:23 PM]

So we only have three million left and there's a lot of properties still remain and now we're looking at 10 million, which is seven million more than the three million that's remaining for the cip funding source and it just seems like when the council makes a decision to spend public money without it going to the voters for a vote that it is really important that our Numbers that we're spending based on that determination are really accurate and don't continue to escalate and escalate. I see that from September 2014 when the discussion of the allocation from the cip, those property values were at 257,000 apiece, and then when we start the discussion back in June of 2015 they're jumping up to almost had hundred thousand, which is 155 -- 400,000, which is a 155% increase from the discussion that allowed the council to make the decision for the approval for spending this money. I agree with councilmember Zimmerman. I'm really concerned. We have something we want to do, but it's not an unlimited budget and I just don't -- there doesn't appear to be a good handle on what we're spending. And what's going to be left to spend. So I know the department is working as hard as they can and I know councilmember Garza is so impacted in this community, but I'm really concerned that we're approving money without voter approval for a program that continues to spend more and more than the money that was approved in the initial discussion in September of 2014. It's that --

>> And the budget and the estimate that we did was based on the prices of the homes if they went on the market at the time, plus the demolition and all the other cost that Lorraine was saying. So based on the time that we're doing since March of 2014 we did this estimate, the estimate was okay.

[3:35:29 PM]

The real estate market -- those months that you're talking about that they passed between the approval and when we began to acquire the properties, it make a big change on the real estate market.

>> Gallo: But that was nine months. Thank you.

>> Garza: For clarification, and maybe I misunderstood what Ms. Gallo was trying to say, but we're not approving any additional funding beyond the original 18 million that was approved by the previous council, is that correct?

>> That's correct. We're going to continue with the funding that you have and we're going to continue going to each of the 25 property owners, if you approve that today, and we will continue with the 38 that you approved before. And when the money is spent, then we will come back to you and decide what we do with the rest.

>> Garza: And I understand why there's confusion because I too was confused when I saw the fiscal note in the backup and I did the math and I thought that doesn't sound right. But I guess the fiscal vote was a little confusing and I know we had to ask several questions to make sure this is the same 18 million that is approved by Co's in 2013. There's no additional funding that we're approving.

>> You have \$18 million approved by certificate of obligation, and it is \$45 million, almost a-million-dollar that it was allocated to this project in March of 2014 from the water program. So the total original funding is 18 Co's and [indiscernible].

>> Mayor Adler: Further discussion? Mr. Zimmerman?

>> Zimmerman: Thank you. It's pretty clear in my mind why I'm going to vote against this. Because what's happened over the last year and a half is we moved from buying out a certain number of properties at a certain price to having a certain pool of money and buying out fewer homes with the same amount of money, but there was already a commitment made in September of 2014 that we're going to buy out a certain number of homes at about 257 per home.

[3:37:38 PM]

So we created this expectation and made a promise to people, we're going to buy you out. 70 homes, 63 homes, whatever number it is, and now we're spending all the money that was allocated for that to buy out fewer homes. So it only makes -- fewer properties. So it only makes sense that when this money is gone that there will be a bunch of people that haven't yet been bought out because the money's gone, but we didn't meet our original commitment for the properties we were going to buy out. And here's the other bizarre thing about this. What's happening with these properties that we said were dangerous, they're dangerous and we have an emergency and we have to buy people out, the property values are escalating. So what sense does it make that homes that are in a dangerous floodplain now appraise at higher values? This makes absolutely no sense. And I wonder whether the action back in September of 2014 has had the effect of increasing the value of homes that are in a floodplain. Because that's what happened. You would think the properties would stay the same or go down. You're in a dangerous floodplain. Don't buy here. But the opposite is happening.

>> I think they can explain how the [indiscernible] is also in the floodplain.

>> Councilmember, we actually pulled mls and looked at the properties that had sold, knowing that this was going to be a question. And I could send some information to you to show that how prices are westing in this area. And as we heard from at the last council meeting where somebody said they did come in and buy a house and they knew that -- they had to buy flood insurance, they just didn't understand the risk. I mean, we're seeing it and we can't control the market, but there is clear market evidence that this area prices are increasing.

[3:39:41 PM]

>> Mayor Adler: Ms. Troxclair and then Mr. Casar?

>> Troxclair: I want to understand the point that you were just making. So are you saying that the properties in a similar area to properties that we bought out around \$257,000 per house last year are now \$400,000?

>> No, ma'am. The \$400,000 includes a lot of other costs, the demolition costs and the asbestos abatement costs. There's a lot of costs rolled in to that number. What I was trying to say is that when we looked at mls and looked at houses that had sold and resold that we saw that there was a significant increase in the price of the homes.

>> Troxclair: Of course, yes, the real estate market is very good and properties are increasing in value, but they're not increasing from 257,000 to dollars last year to \$400,000 this year. Were the properties that we bought out at 257,000-dollar level, did that not include the demolition and asbestos. It is not possible that the properties appraised that much in one year.

>> Sorry, real estate services. We had sent a memo to the open space committee and within that the first three properties that were purchased the average value was right around T \$76,000. And the average appraisals we've gotten in 2015 the average value was \$350,000.

>> Troxclair: So you are saying that the same properties that are \$256,000 last year are now --

>> 276 is what it was in 2014. And now in 2015 the appraisals have come in on average \$360,000.

>> Troxclair: 276 to what?

[3:41:42 PM]

>> 360.

>> Troxclair: I have to say I -- there's something that's not right with that. I am a realtor, as you know, I'm an active realtor. I help people buy and sell houses, these prices in this price range all the time in south Austin. And I don't know of a single house that has appraised almost \$100,000 in this price range in less than a year. I truly don't understand it. So there's something that's not right about those appraisals or --

>> The average price per square foot of 140 in 2014 and the average of 225 in 15.

>> Troxclair: And you're confident that the appraisal -- the appraisals from -- that whatever process you're using to do those appraisals is accurate? I can swear to you that that is absolutely not indicative of the market in the rest of Austin. Of course, yes, the market is increasing, but not at this rate, at this level in such a short amount of time. This is unprecedented.

>> And that's not to say that the properties in 2014 may have been properties more affected after the 2013 flood and maybe they didn't raise -- they didn't complete renovations after the 2013 flood so those may have affected those prices at the that point, but these 2015 appraisals that have come in, that's what the prices have shown. So we have a third-party appraiser that goes out and appraises the property and also have a review appraiser to make sure that they followed all the regulations in doing that as well.

>> Troxclair: Does this not seem -- I know this is your expertise too and you've spent a lot of time and energy on this. In your professional expertise do you think that this sounds accurate to you? >>

>> Councilmember, I can send you the mls of what's sold and let you see for yourself what we're finding out there.

[3:43:48 PM]

>> Troxclair: Okay, sure, because I have mls access as well so maybe I can help you find properties that maybe tell a different story. And again, this is not to say that the Austin market is not going up and it's not to say that these people don't need help, but the problem that we're faced with is having a limited amount of money and needing to help as many people as possible within that amount of money. So this is a really important question for us to answer. And so I'll move on, but I would like to follow up with you. Of the 25 properties, how many properties have actually flooded? That's the conversation that we had last year at council was we excluded some properties because some of the properties that we were talking about buying out had not actually flooded when there were other properties in the city that had actually flooded that we were not buying out.

>> That's correct. In June the 63 properties that we bring you in June is the properties that were flooding in the 25 year flood event, 2001 has a four percent probability of occurring every single year. When you

only pass that criteria we only proceeded with the 38 that they met that they were the same property owners seen in October of 2015 that they got flooded inside the house, that they were surrounded -- and for the property owners to get out of the house. So this 25 that were left is two of those. They got also flooded in the recent storm in October of 2015, but those two, they bought the property after October of 2013. So this property today were not flooded in October of 2015. In October of 2015, only two out of the 25.

>> Troxclair: So we are buying out 23 houses today for \$10 million that have never flooded.

>> No. They have flooded in 1998. They have flooded in previous years. The storms that we have had in this area haven't been the storm that it has been equivalent to a 25 year storm event.

[3:45:55 PM]

Our goal is to protect citizens that live in the 100 year floodplain so this will live in an area that has higher risk of the 100 year floodplain. This is just in the 25.

>> Troxclair: So do we have other properties in the city that are also in some kind of floodplain that have actually flooded in either 2013 or 2015? And that have not been included in a buyout thus far?

>> That's a very good question. Buyouts is one of the different alternatives that -- we have thousands of properties in Austin that are in the floodplain and they are subject to risk of flooding inside the house. So what we do is we look at all the different alternatives that we can do in order to protect the citizens. So buyout is one of the mitigation when you have explored that you cannot build a channel, you cannot do a levee. You wanted to have the -- have the neighborhood still exist and protect those people in the event you have a storm event of that category. So buyout is when all the other alternatives are not visible from the point of view from engineering or point of view of economic. So you're not, it could be another house that it got flooded in October of 2015 that right now we're going to do a project, but it might be a bypass channel and we are going to protect those houses with a different methodology.

>> Troxclair: So are there properties that you have explored all those different methodologies, none are able to prevent flooding in the future. They have flood understand 2013 and 15 and they are not being bought out as of right now?

>> Right now there is only onion creek and Williamson creek, the only two areas in Austin that they have been determined, which is priority number 1 and 2 and that have a mitigation program that have the only one where buyout is the mitigation alternative. We have proceeding on the lease of other properties and some of them we're going to do in the little one project we're going to do a tunnel, we're going to do other things to protect the houses.

[3:47:58 PM]

>> Troxclair: Okay. I'm not sure that answered my question, but maybe it's because you don't have the answer now.

>> That's a good question. There can be another area that flooded and we are not buying them out because we have determined it's not the best alternative.

>> Troxclair: I guess I'm asking that because I'm still struggling with the same issue that led the council last year to prioritize the houses that had actually flooded because again we only have so much money and we need to get people out of danger, but there is an argument that could be made that the people's houses who have actually flooded are in more imminent danger. And who have not been bought out, are not on a buyout list right now, are in more imminent danger than properties in a floodplain that have not flooded. So I am -- want to make sure that we are prioritizing the people who are in that -- the most immediate physical danger. And I have a hard time believing that 23 of these properties had not flooded previously and did not flood in 2015.

>> Kitchen: Mayor, just a point of information. Some more information behind what you just said. When you say onion creek, it would be helpful if you distinguish between upper onion creek and lower onion creek. Because there are properties in the upper onion creek that flooded. And the stage that they're in is there's an engineering solution that's being explored and our expectation is that we will hear back on that jimping study at the end of February and then you will need to address whether there is an engineering solution for the upper onion creek area or whether we have to consider buyouts because there are homes in that upper onion creek area that were flooded twice. In both of the Halloween floods, where people were put at danger. And they are just -- that issue is making its way through the process and we are hopeful that there will be an engineering solution, but we don't know at this point.

[3:50:05 PM]

>> That's correct. The lower onion is the one that buyout was not an alternative. The upper is where we're doing this study and looking for other alternatives.

>> Casar:, so on to clarify, when we made a decision back in June, I think of last year, that I disagreed on to exclude these properties, but we asked for real estate to come back with these properties and that's my understanding what is happening right now. And there were concerns that some of these properties have been sold and that that was a reason to not do the buyout, my understanding from speaking with staff is that often times these properties could have been sold from the homeowner that could have been flooded to an investor renting to tenants who are in danger or they were sold or transferred between family members. So I think there's not any more reason to delay. We delayed this back in June and punted it to today. The real estate market is only getting more expensive. The chance of somebody being in arm's way is only increasing so that's why it makes sense for us to fix what was a mistake back in June by completing the buyout. And just because somebody's property didn't flood in October doesn't mean that they're not in danger. Our scientists and engineers should be the one who tell us that. My house flooded in October, but I don't fear danger because I don't think we'll ever get more than a few inches of water in the house. So I have to rely I think on the expertise of our staff to tell us where the danger is, what is an engineering solution and where do we need to go to a buyout solution. So I would urge us before anecdotally thinking they didn't flood last year, they will not flood again, that we rely on the expertise of the staff to let us know what's in danger and what solutions are available. I urge us to fix what we didn't do right in June by voting yes for this.

>> Mayor Adler: If there's to no further debate we'll vote on 47. Ms. Gallo?

>> Gallo: I'll go back to the financial question.

[3:52:07 PM]

So we start with 18 million, correct? That was what was in the cip allocation for this area, is that correct?

>> 18 million certificate of obligation and 45 million in

[indiscernible]. Ms. Gallo 18 million for properties in area. And three properties were purchased and what was the total for those properties?

>> I can provide that to you. It will be a little bit more than a million dollars. Including the demolition and everything.

>> Gallo: Because I'm assuming the 18 million included all of that.

>> 18 in certificate of obligation because you have two funding sources to buy these houses. 18 in certificate of obligation and .95 in water management fees that were appropriated in previous years in 2014.

>> Gallo: Super. And then we have the 38 properties when we came to us in June of last year. There were 38 properties that we had with an estimated cost of 45 million. That's what the notes say.

>> What are you looking at 15.1.

>> Gallo: In the backup material we have it says on June fourth, 2016, it says city council defined 38 of the 43 properties as eligible for the buyout and authorized acquisition of those 38 properties with the cost of 15.1 million. So that council -- the council has now -- the council has approved in June for an additional buyout of 38 properties with an estimated cost of 15.1 million. So that 15.1 is being deducted from that 18 also. And then my question would be have you completed the process of the buyout of the 38 properties?

>> Have we completed? No, we have not completed. Of the 38 properties that you approve in June, the office of real estate began to contact the property owners and they have contacted 32 out of those 38 property owners.

[3:54:17 PM]

Four of them do not have interest in selling. The fifth one hasn't responded. So they have presented offers and they have already closed in three out of those 38 properties.

>> Gallo: Okay. So the offers that you presented, are those the total -- that's not the total including the demolition and the asbestos abatement or any of that. That's just the offer to purchase and then buy the relocation cost. Is that correct?

>> That's correct.

>> Gallo: Do you know the total for the 32 offers that you've made, what the total is?

>> I don't think they have done 32. They have met with 32 properties and they have done appraisals. I don't think that they have made offers for the 32 yet.

>> Gallo: I guess where I'm going with this, we allocated approximately 15.1 million to buy the 38 properties with you don't know how close we'll be to the 15.1 million because none has been completed yet, but when I take 18 million and I subtract about one million and the 3.1 million for the 38, I'm getting really close to that 18 million. So I'm not understanding where the 10 million is coming from for the additional 25.

>> Because the properties that were going to be protected with buyout, it was 63. Minus the 38 that you approve in June that leave you --

>> Gallo: I'm not talking about the number of properties. I'm talking about the dollars that we're using to purchase properties. So maybe you could help me with that. We're talking about 18 that came out of the cip, we're talking about a million that went to the three, the 15.1 that was allocated for the 38 properties and I have now deducted to almost zero on this. So I'm not understanding where this \$10 million comes from for these other 25 properties.

>> I'll try to see if I can clarify.

>> Gallo: Thank you.

>> You're correct, \$18 million is the certificates of obligation that were approved by the previous council.

[3:56:22 PM]

My understanding from talking to folks in watershed is that it's currently anticipated that the 38 properties that were established by this council as a priority are going to be near \$16 million by the time it's all done. They're not all bought yet. They're still working on it, still in negotiation, but the current estimate is that the 38 that were established as a priority by this council, if all those deals are fun done, if everyone agrees to sell, that's \$16 million, which leaves two million dollars of the certificates of obligation authority remaining. On top of that there's about \$900,000 in the regional storm water program that would be available that the department has allocated to this buyout effort. So they're

estimating that there's \$2.9 million remaining for these 25 properties. That's not enough money to do these 25 properties. They estimate that the total amount to do all these properties would be \$10 million. So what this action by council is doing is authorizing staff to over some time period authorize and negotiate the -- the remaining 25 properties, but just know they that they only anticipate they will only be able to buy about seven of the remaining 25. They anticipate tell they will be able to buy seven of the remaining homes. Any properties bought beyond that to buy the remaining properties would require a subsequent action by this council to either approve for more certificates of obligation, that would require an action by this council, or in subsequent budgets there's been some discussion with the watershed department that they may look to other things that they could reallocate, are there things in their existing cip funds that they might allocate to this program given that it's such a high priority. They currently fund on an annual basis about \$25 million on an annual basis they fund to their cip program. So they would look into could they real indicate some of the \$25.

[3:58:26 PM]

Another option to be to not reallocate, but to ask this body through the budget process for additional funding for the buyouts as part of the next budget cycle. So I think it's good that this came up, that this action here, that there's currently not enoughing to do all 25 of these properties even with this body authorizing the staff to move forward and to negotiate those that, it would require additional action from this board.

>> Gallo: Thank you for that clarification. What I was hearing earlier was that there was money in the original 18 to be able to do this. What I'm hearing is there's not. And my concern --

>> That's a disconnect. There are 25 properties that we still need authority to purchase and there's only funding for about seven of those. There would need to be other funding actions coming forward to this body.

>> Gallo: But there's funding for seven if the 38 are bought within the 16 million. And I guess that's -- I'm not going to vote for this because my concern is until we get finished with the 38 we really don't know if we have any money left over your not. We don't even know if we've overspent what we have on the 38. So I-- there is a critical need out there, but we're seeing that it's costing us more than it's estimated that it's going to cost us. I think there's a history of that. And it's market and everything else that comes into that. But I think at this point we don't even know that we'll be able to get the 38 purchased out of the original 18, the cip that was funded. Thank you for helping to clarify that.

>> Tovo: Don't go. I believe we have another question from councilmember Zimmerman.

>> Zimmerman: One more. One more question here. The reason I'm squirming in my seat is because I think I've heard not enough funding. I bet I've heard it a dozen times. I want to back up to what my objection here is. We authorized the purchase of a certain number of properties at a certain price. There's no such thing as a concept of not enough funding because we allocated a certain amount of funding to purchase a certain amount of properties.

[4:00:27 PM]

There's no such thing as not enough funding. Okay? Certain number of properties, certain amount of money. And so I've heard it a dozen times. There's not enough funding, not enough funding. We allocated a certain amount of money to buy homes. Because there's been a deliberate disconnect where now people say we're obligated to buy a certain number of homes, irrespective of funding. And that's what leads to the remark we don't have enough funding. Now you can start saying we don't have enough funding, but that was never what this was about. We allocated a certain amount of money to purchase a certain amount of properties. Now here's the effect. You put it in the backup material, we

have had a 60 -- follow me on this, a 60% increase in the square footage of a property in this flood area. So on these -- we have these real estate programs on the radio. Boy, the hottest place for real estate in Austin now, buy in a floodplain and get a 60% increase on your property value. It's just nuts. Because we've divorced the amount of money we're going to pay for these flooded homes and now it's considered a commitment to buy irrespective of price, what happens to the price? It goes up 60%. I think we have an -- we have a responsibility for what's going on here. The property in a floodplain appreciates higher than any other property in the city and it's nuts. So I'm going to vote against this and -- look, we have thousands of properties we could be on the hook to buy out. We're in trouble here.

>> Tovo: Councilmember Zimmerman -- councilmember troxclair, I just have a quick question for our colleague. Were you suggesting that there were real estate advertisements on the radio suggesting that people buy in a floodplain?

>> Zimmerman: It's a joke based on the data, but the data -- look at the data that's in front of us. 60% increase. Buy in a floodplain, 60% increase.

[4:02:29 PM]

The city will bail you out, irrespective of the cost, they'll bail you out.

>> Tovo: Councilmember troxclair.

>> Troxclair: I just -- I know obviously you couldn't get me the mls information while you're standing here, but I did go ahead and pull it up and I'm looking at the Williamson creek floodplain here. And the properties that have recently sold that are in the market on that area, I see one for 245. There's one for 219, 299. Those have recently closed. And then there's one that's pending for 319. One on the market for three hundred, 295 and 279. The one on the market for 279 is a five bedroom, three and a half bath. So these houses range anywhere from three bedrooms to five bedrooms. So I just really want to reiterate that the increase in supposed appraisal value between this year and last year for homes in this area is not accurate.

>> Councilmember, okay, let me also clarify. We're also talking about buying a new house as well.

>> I.

>> Troxclair: I understand. I understand. But the information that you gave me was from 276 last year -- the average home was about \$276,000 last year and is now appraising at about now \$360,000. And of course there's additional money being put in to get us to a total of about four hundred thousand dollars per home to allow these people to buy similar homes. But there are similar homes in the market, not just in the floodplain, but also outside the floodplain that are less than -- the vast majority that I see here in mls that have sold recently or pending or on the market, are on the market around -- for less than three hundred thousand dollars.

>> I'd have to look and see the amenities, square footage, and that information, but I do have that information for you.

[4:04:33 PM]

And again, that total dollar amount includes the replacement. It's closing cost, it's --

>> Troxclair: I understand that.

>> It's appraisal cost, review appraisal costs. It's all the costs to get from a to B.

>> Troxclair: I understand that, but the --

>> Tovo: Let's let Ms. Rizer finish her comments.

>> So if I misled you, I apologize. It's a total cost including the cost to buy a replacement house outside of the floodplain. So you have the increase in value for the property in the Williamson creek area, but

you also have the increase in the housing market for houses outside of the Williamson creek area. And I would really like to give you that data, I just don't have it with me right now.

>> Troxclair: I understand that you're saying that the reason that we're getting to 400 is abuse of those additional costs. But the data that I'm referring to is what you just told me a few minutes ago that the actual appraisal value of the home, not including any of those additional costs, went from \$276,000 last year to \$360,000 this year. So that's the jump that I'm referring to. And on the point of making sure the people can get a similar home with similar amenities, if you look around the area you really -- there's 249, 305, 184, 295, 239, 178. This is all just on the other side of the street outside of the floodplain. So I think -- so maybe we can sit down together and go over the mls data together. Something about this does not make sense to me.

>> And let me just clarify one point, that the house -- the values per square foot, those were -- that was in 2014, and that was based on three homes that we purchased in 2014.

[4:06:38 PM]

And those homes were significantly flooded. Those were the worst homes. And so that price per square foot is based on the homes that were the least value. And so that also accounts for the jump in 2015 and 2016.

>> Troxclair: Okay. But regardless of that I'm not seeing that homes in that area are selling for an average of \$360,000. And I'm not saying that you can't buy a replacement home in a similar area for less than \$360,000.

>> Thank you, councilmember.

>> Mayor Adler: Any further discussion? Ms. Gallo?

>> Gallo: As I mentioned before, I'm not going to vote for this, but I first want to say to staff I appreciate all the work that you've done and I know this has been a difficult process with all of these pieces that you have to put together and I thank you for doing that. But my concern is I would prefer to take a slower pace on this and give you the opportunity to complete what the council asked to you do last year with the 38 house houses and then once that is done we'll be able to reevaluate to see if we actually have funds remaining in that Co that was done by the previous council. So voting no does not say that I don't think you are doing your job and you're doing a very difficult job here and we appreciate it. Thank you.

>> Mayor Adler: Moved and seconded, item number 47. Those in favor, please raise your hand. Those opposed? Gallo, troxclair, no. The others voting. It passes. That gets us to item number 49. With respect to item 49, this is a non-consent condemnation item.

[4:08:40 PM]

Is there a motion to the the effect that the city council of Austin authorizes the use of the power of eminent domain to acquire the property set forth and described in the agenda for the current meeting for the purposes and uses therein described on item 49? Is there a motion office Ms. Garza makes a motion. Is there a second? Ms. Houston seconds. Is there any discussion? Item 49. Those in favor of item 49, please raise your hand? Those opposed? Those abstaining? With Zimmerman and troxclair abstaining, the others voting aye, that passes. Yes.

>> Renteria: Show that I was voting yes on 47.

>> Mayor Adler: Yes, Mr. Renteria voting yes on 47. That gets us then to have we hit everything but item 36? Yes. 9 and 10 are at 6:30. We're at 36. Do we want to consider 36 or do we want to leave until 5:30. Mr. Caesar?

>> Casar: Mayor, if we're not going to take action on 36 we'll hear more folks' opinions. We've always been so pressed for time that this pretty important matter has been delayed -- actually last work session I passed this out. So I would like, since we have this rare instance where we're all together and have a little bit of time, to hear folks' thoughts if people aren't ready to vote yet.

>> Mayor Adler: We have one public speaker signed up.

[4:10:42 PM]

Mr. King, do you want to speak to us?

>> Kitchen: Can I speak for just one second? I have no problem with discussing. I think that's fine. I think we also need to understand that there was -- there is a report on the committees' recommendations and so this is sort of being taken outside of that report, which is all right. I don't have a problem with that if people want to spend time talking about it, but I also want to be mindful that people may want to think about this in the context of the whole report. So we may not be prepared to vote on it. So anyway...

>> Mayor Adler: Yes, Ms. Troxclair?

>> Troxclair: I understood that was the intention of councilmember Houston when she brought it up at work session and that would be my preference too would be to have this conversation in the context of the whole report. So thank you.

>> Mayor Adler: Anyone else have a preference?

>> Zimmerman: Mr. Mayor, I would move postponement of item 36.

>> Mayor Adler: Okay. It's been moved to postpone item number 36 to next week?

>> Zimmerman: To coincide with the report that councilmember kitchen had mentioned. When would that report come out?

>> Kitchen: The report was handed out at the work session on Tuesday. We didn't have a lot of time to talk about it and people needed to read it and digest it. So we could discuss the report at the next work session and then be ready for next week. It's really whenever people are ready to take it up.

>> Zimmerman: Then motion to postpone until next week.

>> Mayor Adler: Let's postpone to next week and talk about it at work session next Tuesday, both the report and Mr. Casar's resolution. Is there a second to that? Ms. Houston seconds that? Any discussion? Those in favor please raise your hand? Ms. Houston I had a question of legal. We have a current operating resolution already on the books.

[4:12:46 PM]

Is there a way to have this operating procedures of council that don't need to be memorialized? Because every time we change something we'll have to come back and amend something. So is there some way that we have a general resolution, ordinance, and then we have operating procedures so that we don't have to change this every time we make a tweak?

>> I think you could reconfigure the ordinance if you like. Right now it's by ordinance and in our code, but you could change that to do a different way.

>> Kitchen: Let me make another suggestion. We have an ordinance right now. The report could be considered our operating procedures because what we tried to do with the report was -- there's a lot of things in the report that are more like operating procedures so that reported we could decide whether we want to adopt that report and that could be like operating procedures. And the things that are in the ordinance are the things that we originally thought should be in an ordinance. So it would be a combination of ordinance and the operating procedures. Now, it could be that we decide we have too much detail in the ordinance right now and our balance between the operating procedures and the

ordinance is off. I mean, that could be. But we do have two documents set up now and we could think about whether we've got the right balance between those documents.

>> Mayor Adler: Something to think about, we could adopt if we wanted to, at the other extreme, an ordinance that says we will adopt rules to provide for our operating procedure. That could be the only ordinance we have. And then we would have a rule book that we followed subject to us changing. Mr. Casar?

>> Casar: And we're posted -- we'll be posted for the next council meeting for the ordinance changes that I think reflect some of what we discussed at the transition committee and in this resolution. And so I think that's essentially what's on the table is for us to both adopt a set of cultural rules alongside what is appropriate to be in an ordinance.

[4:14:52 PM]

So we passed out what that ordinance will have in it last week and then again on Tuesday, and I think that -- I guess what I was sort of interested in is some of these cultural ideas in the resolution and potential rule-making influence, what would be in the report and the ordinance. That's why I hoped to in a public meeting hear from the people I can't talk to in private about generally where they're at so we're not all of a sudden pushing this back further and further because we have a debate next week and we have to -- I want this to be a system that works for people and the longer we take, the more chances are we just end up not getting everything done we want to get done. So I would -- if folks don't feel comfortable talking about it, then that's fine, but it is an odd opportunity that we have an hour and 15 minutes here.

>> Houston: And mayor, one of my concerns is that I would rather be a -- what council committees can do rather than a lot of not do, will not be primarily a vehicle for. I would rather rephrase things to be able to say what we will do. And so as I look at the back page of the resolution that councilmember Casar has authored, it's a whole lot of not's instead of what we will be doing. So I need time, if everybody else wants to vote on it that's fine or talk about it or make the changes. If there's a hurry to do that. But I want to take time and look at it and see if I can come up with some other suggestions.

>> Kitchen: Mr. Mayor? I would like to take a little more time too because I want to get clear on this with the context of the report because I think that it all goes together. We've only -- we brought it up last Tuesday. I think giving it a whole week to think about it fine and I don't think -- I think councilmember Casar's point is well taken that we need to make sure that we talk about it, but we've got a path right now so we can talk --

[4:16:56 PM]

>> Mayor Adler: My sense looking around the table, Mr. Casar, is people would love to have an hour back in their office and come back down.

>> Casar: That's fine. I was glad to hear at least one of Ms. Houston's commotes on the issue. I'll take it under consideration.

>> Mayor Adler: It's been moved to postpone this for a week. Mayor pro tem?

>> Tovo: I'm intrigued by the idea of considering how we capture these generally, whether we have a simple ordinance and then have operating procedures that we consider from time to time. That allows us more flexibility. We suddenly need a committee or we don't need a committee. A lot of that has been memorialized in an ordinance and just in terms of the sustainability over that -- over next councils, I think we might be better off with what's been suggested.

>> Mayor Adler: I want to think about that --

>> Tovo: I want to think about it too -- [overlapping speakers].

>> Tovo: It's an intriguing suggestion. I will say I'm a supporter on the items that councilmember Casar has brought forward and I'm very supportive of those changes and I look forward to that conversation about why.

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: I would encourage everyone to go back and look at the ordinance so -- I'll be happy to distribute those again so you don't have to search for them. But the ordinance that we passed last year to my mind is -- I don't think we need to delete the whole ordinance and just put everything in operating procedures. We did a pretty good job, I thought last year, in deciding what went into ordinance and what really ought to be an operating procedure. So I would just encourage people to take a look at that and I'll make sure you all have that. Basically there are three documents for you all to think about. The ordinance that we passed last year, the committee's draft report and the resolution that councilmember Casar has.

>> Mayor Adler: Great. There's been a motion to postpone this item until next week. We'll discuss it next work session. Those in favor please raise your hand? Those opposed? Unanimous on the dais. We just have the public hearing to go. We don't have a lot of speakers that are signed up for this. About a dozen.

[4:19:00 PM]

So -- 94.

>> [Inaudible].

>> Mayor Adler: Music starts at 5:30. Proclamations at 6:00. We told the community 6:30 for the call for the tnc issue. And everyone has the expectation that we're not really discussing the tnc issue, we're just taking this public testimony. We will remind everyone that if they speak now they don't speak the following week. Mr. King, you had signed up to speak on the item we just postponed. Do you want to address it?

>> [Inaudible - no mic].

>> Mayor Adler: Okay. Yes, mayor pro tem?

>> Tovo: Mayor, I want to ask you to clarify. I think you talked about the proclamations and a start time. Live music is at 5:30 and the proclamations will be immediately after. Okay. Thank you.

>> Mayor Adler: All right. We stand recessed.

[5:31:16 PM]

>>

>> Mayor Adler: It's always nice when there is a crowd gathered for music and not uber/lyft.

[Laughter]. We're here for them too. Joining us today is a-town get down.

[Cheers and applause] A-town get down comprises an all-star cast of talented musicians with the simple goal of playing a MIX of original and danceable funk and soul. A-town get down wants to deliver an experience that is not typical in the central Texas music scene. Their concerts are unique events where people often show up in themed costumes.

[5:33:18 PM]

[Laughter]. And the band has supported the likes of papa Molly and grow fro. Please help me welcome a-town get down.

[Applause].

[♪Music playing♪] >>

[5:38:31 PM]

[Cheers and applause] >>

>> Mayor Adler: That's pretty great. Thank you. So for anybody is watching on TV and they want to know where they can go see you play next, where's your next gig?

>> [Inaudible]. We're playing February 19th at 101 and we're playing March fourth at rattle inn. We have a couple of shows after that, but I'll leave it for that.

>> Mayor Adler: And if people wanted to find you, what's your website?

>> It's a-towngetdownatx.com. And we have music on there and pictures.

>> Mayor Adler: So if they want to buy some of your music what can they do?

>> They can just send it straight to me.

[Laughter]. We're working on it.

>> Mayor Adler: All right. %

>> We're too busy having fun. We'll get to that later.

>> Mayor Adler: That was a lot of fun. I have a proclamation. Be it known that whereas the city of Austin, Texas is blessed with many creative musicians whose talents extend to virtually every musical genre. And whereas our music scene thrives because Austin audiences support good musics or local favorites or newcomers alike. And whereas we are pleased to showcase and support our local artists, now therefore I, Steve Adler, mayor of the live music capitol, do here by proclaim February 4th of the year 2016 as a-town get down day.

[5:40:34 PM]

Congratulations.

[Cheers and applause] >>

>> Houston: Good evening, everyone. Good evening, everyone. My name is ora Houston and I represent district 1 on the Austin city council.

[5:42:35 PM]

And tonight it is my pleasure to introduce most of you all to assistant chief Richard L Davis, junior, and he's been with the fire service here in Austin for 23 years. And I have a wonderful recognition to read to you and then give to him. United States fire administration national fire academy. In recognition of successful completion of the requisite courses of study and applied research projects, the national fire academy, under the authority granted by the 111th congress of the united States of America and on recommendation of the faculty, confers the title of executive fire officer upon Richard L Davis, junior, with all honors, privileges and responsibilities there unto appear pertaining, approved this the 18th day of September 2015, federal emergency management agency. Thank you so much for your service.

[Applause]. And would you like to say some words?

>> Thank you, councilmember ora Houston. I appreciate your support, and all the things that you've provided the fire department in the years to come. Also I'll I would like to thank chief Kerr for her encouragement for me to attend the fire academy F it wasn't for her I wouldn't even be at the fire academy. Thank you, chief. I would also like to thank the mayor for his support and providing us with an innovative outlook as we strive and move forward into the years to come. Thank you.

[Applause]. >>

[5:45:54 PM]

>> Mayor Adler: I have a proclamation. Be it known that whereas the Austin energy regional science festival will showcase the talents of more than 3,000 elementary through high school students from public, home, charter and private schools throughout the greater Austin area. And whereas 2016 marks the 60th anniversary of the Austin regional science fair and the celebration of an event in which the city of Austin is one of only two municipal governments in the country to organize and host a regional science festival in its community. And whereas science fairs, like the Austin energy regional science festival, with the theme inspiring genius, helps spark an interest in children to pursue science and technology, engineering and math careers, and whereas we congratulate the participants, especially those whose winning projects will move on to the state and international competitions. And we thank Austin energy, our community owned electric utility, for sponsoring and organizing this important event for the 14th year in a row. And we thank the Austin science foundation for its important role in securing sponsorships which aid in funding the events. So now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim February 17th to the 20th of the year 2016 as Austin energy regional science festival days. And for comment I would introduce Elaina Ball, who is the interim COO of Austin energy.

[5:47:58 PM]

>> Thank you, mayor. We are honored again to receive this proclamation and to once again host this important community event. This year marks the 60th anniversary of the regional science fest, but it never gets old. That's because the science fest brings together the largest gathering of our youngest and sharpest minds in the community. These students are going to be the next generation of Austinites, our residents and our employees who will continue to make the Austin economy vibrant and also one of the most innovative and best places to live in the country. Hosting this event every year is not possible without the support of many sponsors. I would like to thank the Austin science education foundation as well as our five major sponsors who are here with us today.

Those sponsors are: Intel, synopsis, 3 M, bma systems and Google fiber. Their support makes it possible for accomplishments such as two of our students here today. Last year Caitlin Marsen and Samir placed at the regional science fest and moved on to the prestigious international competition. Samir placed second in environmental engineering. He received a cash award of \$1,500. And get this, he is having an asteroid named after him. So that's pretty awesome. So thank you, mayor, for acknowledging today all of the efforts of everyone involved in the regional science fest and for the proclamation and certificates. Now if we may take pictures. Thank you.

[Applause].

[5:52:52 PM]

>> Pool: All right. Next up we have a proclamation for love your locals month. And I have with me Laura Fowler with the Austin independent business association, and joining us Mayor Adler. Proclamation, be it known whereas local businesses are the cornerstone of our local economy. They collectively represent Austin's largest employer. And whereas homegrown businesses reflect the unique character and identity of Austin. And whereas the Austin independent business alliance is a non-profit that promotes and supports locally owned businesses and wishes to recognize local businesses during the month of February. And whereas February is known as the month of love and the city of Austin loves our local businesses and encourages all residents to love their locals too. Now therefore I, Steve Adler, mayor of the city of Austin, do here by proclaim February 2016 as love your locals month. Congratulations, Laura.

[Applause].

>> Thank you so much. Mayor Adler, councilmember pool, thank you so much on behalf of Austin independent business alliance, which is an alliance of over 400 active members and business owners. And if I may take this opportunity to please urge everyone in our community to support our local business owners who give so much back to this great city. Thank you.  
[Applause]. >>

[5:55:18 PM]

>> Mayor Adler: Noack proclamation. Whereas the Sims foundation celebrates 20 years of service to the Austin music family, commemorated by the releases of friends of Sims, a tribute album created for Sims Ellison by his brother. And whereas the foundation provides mental health and addiction recovery services to Austin musicians, to music professionals and their families over the last 20 years, and resulting in over 5,000 musicians receiving care for depression and anxiety, stage fright and relationship issues, addiction and other serious mental health issues. And whereas Sims has expanded services in 2016 to include sound engineers, lighting techs, band managers, roadies and other live music professionals. And whereas friends of Sims has received local and national recognition and features over 30 Austin musicians, including Charlie Sexton and Doyle Bramhall II, Chris Layton, Alejandro and more, all performing for their love of Sims Ellison and benefiting the Sims foundation. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do proclaim February fourth of the year 2016 as friends of Sims day. Congratulations. And Kyle, you wanted to say a couple of words, that would be great.  
>> Yeah, thank you, mayor Adler. That's a real honor. I wish Sims could have seen you read that. He would be really happy about this. And I'd like to thank the city of Austin for supporting local music. I would like to thank the fans of music. And I don't know, it's just a real fun record to make.

[5:57:18 PM]

I hope you guys get a hope -- get a copy and rock out to it.  
[Applause]. >>

>> Mayor Adler: I have a proclamation. Be it known that whereas respectful, supportive and non-violent relationships are key to safety and health and academic success for young people. And whereas teen dating violence is a significant health issue with only one-third of youths reporting physical or sexual violence with a dating partner. And whereas victimization increases teens' risks for injury, substance abuse, eating disorders, unwanted pregnancies and even suicide. Young people exposed to violence are also at greater risk for becoming victims and perpetrators in adult lives and adult relationships.

[5:59:28 PM]

And whereas we urge citizens to join the austin-travis county family violence task force in promoting healthy teen relationships and in participating in activities and conversations about respectful and non-violent relationships in their homes, schools and communities. Now therefore I, Steve Adler, mayor of the city of Austin, Texas, do here by proclaim February of 2016 as teen dating violence awareness and prevention month. And we have Elizabeth Cressentia to say some words for us.  
[Applause].

>> My name is Elizabeth, mom of Jennifer, who was 18 years old when she was murdered by her ex-boyfriend. This month marks the 10-year mark of her death. People say to me that time heals all wounds, and that is simply not true. I am still wounded by the reality that my daughter was forced to her knees at gun point, she was shot at close range with a sawed off shotgun to the head by a young man that she loved. But I don't share further details than that with anyone, ever. And why? Because it

hurts them so profoundly, even when I simply tell people that my daughter was murdered, they look like I just punched them in the face. So in some ways I still feel alone. 10 years and I feel alone, even though I do have a lot of support. My daughter's friends were also devastated, and quite frankly, most of them are still very affected by their friend who died in such a violent and preventable way. I went to every professional I could find 10 years ago to try to find help for my daughter, and I felt like I was hitting my head on the same two inches of brick wall.

[6:01:40 PM]

Even the mother of the man who killed my daughter did the same for her son to no avail. So I'm honored to be a part of the amazing resources that we have out there today. Because we can't parent in a vacuum. We need your voice to reinforce to our children that they deserve to be treated with respect, have healthy relationships and most of all be safe. Now, I don't want to suggest that I haven't healed at all. I have. And as dark as those first years were, I now find light in my work. I am fortunate to be able to coach teens and educate professionals. When I speak I'm often surprised by people who after 10 years still vividly remember and are still hurt by the day my daughter died. Very recently I spoke to a group, one of whom was a high school teacher, and she remembered the horrific impact the murder had on all of her students. So it's not just me. My daughter's peers, my family that are hurt by teen dating violence. The effects are like ice crystals on a window pain. They grow into every corner of our lives and into our community's lives. That is why it is important that we educate ourselves so that we may all be prepared to intervene and respond. I always say it takes a village to prevent teen dating violence. Not one of us can do it alone. So please take this month of awareness as an opportunity to educate yourself and your children by birth or profession about teen dating violence. It won't only help you, but the lives of so many in our communities. Thank you.

[Applause]. >>

[6:03:45 PM]

>> Good evening, my name is Mary rosenblut, I chair the youth issues committee of the Travis county family violence task force. Elizabeth's loss is one that no parent should have to face. And yet there are other parents in Austin and throughout the nation that have lost a child to teen dating violence. The Travis county family violence task force and its member agencies are working together to support vulnerable youth, educate adults and engage youth leaders in prevention. Throughout February, schools, churches and other groups will be participating in activities to educate themselves on how to recognize the warning signs and how to intervene and prevent violence from escalating. We invite you all to join us on Tuesday, February 16th at Travis high school for a kickoff event for national teen dating violence awareness prevention month called break the silence to end dating violence. Featuring youth performers with theater, poetry and music all to promote safe and healthy relationships in Austin. We hope you will join us there. We want to thank the council for its support. We believe that our combined efforts will create a safer and healthier community. Thank you.

[Applause]. >>

[6:06:20 PM]

>> Mayor Adler: And I think the council comes back at 6:30 for the tnc discussions. >>

[6:34:29 PM]

>> Mayor Adler: All right. We're going to go ahead and reconvene the city council meeting. It is 6:35. We have items 9 and 10. As we have announced to the community, we're going to call speakers. This is on the issue the tnc, which you can talk about -- what you can talk about is the decision about what to do with the referendum. You can talk about the initiative rather, the ordinance to pass, setting an election. We will also have the same debate next week, next Thursday. And anybody who speaks today will not speak next Thursday. So if you choose to speak today, you speak today, but not then. And folks who are waiting to speak then can wait, but you can't speak twice. I'm going to go ahead. Council, there are about 20 speakers, so we're going to go ahead and give everybody three minutes to speak. The fact that we're giving everybody three minutes to speak here tonight does not mean that everyone who speaks next week will get three minutes. We'll make the decision on how much time people have based on how many people we have coming to speak next week. I want to call your name -- when I call your name you get a chance to speak. We're going to begin with Frances McIntyre. And the next speaker will be David King.

>> Good evening, mayor and council. I am Frances McIntire with the Austin league of women voters, and I'm here to talk to you about item 10 on the agenda relating to the citizens' initiative that may be on the may election ballot.

[6:36:32 PM]

The league believes in a citizen's right to now and in facilitating citizen participation in governmental decision making. We believe that citizen-initiated petitions are a method by which citizens can address or redress issues that their leaders are not hearing or acting upon. The league was involved from the very beginning of the 10-1 petition drive and recognized that a very diverse group of individuals initiated that process. It was truly a grassroots model for any initiative to follow. It changed the form of governance in Austin. The procedure was meticulously followed with petitioners making sure everyone who signed looked at the written petition so they would know exactly what they were signing. The process took almost two years. The initiative that is before you today did not start with a diverse group of Austin citizens, but by a rich corporation which wants to do business in Austin under their terms. Nevertheless they did very quickly get enough signatures to make a ballot issue. We recommend that that go to the public as did the 10-1 initiative. Since we are a government by the people, we believe that citizens should have their say about this issue. The price of an election is part of the cost associated with this kind of issue, and the citizens deserve their opportunity to speak to it. Perhaps the citizens should have a choice on the ballot in may as was the case when we voted on the 10-1 ballot in November of 2012. Council at that time chose to put a second choice of a hybrid district plan on the ballot and citizens had an opportunity to vote for or against both measures. You have in place a good ordinance to use for guidance. The league also believes that responsible government should be responsive to the will of the people.

[6:38:38 PM]

We definitely support putting the tnc petition on the ballot so that all of Austin citizens can weigh in on it. Thank you.

>> Mayor Adler: Just in case other folks are listening, the city council does not have the ability to put on to the ballot a second measure. The reason that it happened with the 10-1 situation was because that was a charter amendment. So we could put something on the ballot if we wanted to, but it would need to be a charter amendment.

>> I do understand that it would be a charter amendment, yes.

>> Mayor Adler: An ordinance and a charter amendment. And if we do that then we're precluded from bringing another charter amendment for two years. I just want people to understand what the rules are. Thanks for giving me that opportunity.

>> Just a suggestion.

>> Mayor Adler: No, a good suggestion. I just wanted -- thanks for giving me the opportunity to lay that out.

>> Absolutely.

>> Mayor Adler: Thank you, ma'am.

[Applause]. David king? And then Jennifer Mcphail.

>> Thank you, mayor, mayor pro tem, councilmembers. I'm here to urge you to vote against the uber/lyft ordinance and put it on the ballot. Let the voters decide. When corporations write our laws it doesn't turn out well for regular citizens. Homeaway and air bnb pretty much wrote our short-term rental regulations that we have today and look how they turned out. Look how much time we've spent on that to try to straighten out that mess. I hope we don't start down that pathway again on these tnc regulations. If the council backs down and accepts the uber/lyft ordinance without a public vote it will set precedent for other corporations and moneyed interest for the council on other issues. I trust that the voters will vote against the Uber ordinance and send a strong message that they will not be allowed to dictate Austin's laws and policies.

[6:40:46 PM]

Uber's bully tactics have spawned a recall against councilmember kitchen, a recent editorial in the "Austin american-statesman" indicated that it stands to reason that the petition is connected to kitchen's position on requirements for transportation network companies such as Uber and Lyft. An article by Michael king in the Austin chronicle stated the ride-sharing folks now insist that they have nothing to do with the recall kitchen campaign, but they certainly started the ball rolling. More importantly, the fingerprinting debate senior just a side show to the central argument, who is going to write Austin's laws? An elected city government or absentee billionaire corporations with the resources necessary to buy an election? After a century of oil and gas domination of state politics, texans should be well wary of self-regulating businesses. Which of you will be targeted next? What policy and law will be the next target of a bully corporation? The statesman editorial dated that Austin has no shortage of contentious issues such as environmental protection, housing, code revisions, public safety and transportation, resorting to a petition is a terrible way to write policy and even worse way to choose leadership. Uber is ranked the 48th most powerful corporation in the United States in 2014 and is worth over \$62 billion. And even our founding fathers had concerns about corporate power and influence. I hope that we shall crush in its birth the aristocracy of our money corporations which dare already to challenge our government to a trial of strength and bid defiance to the laws of our country, Thomas Jefferson. James Madison said, the power of all corporations ought to be limited.

[6:42:46 PM]

Their growing wealth acquired by them never fails to be a -- a source of abuses. Thank you.

[Buzzer sounds]

>> Mayor Adler: Thank you.

>> Hi. I'm Jennifer Mcphail. I'm with adapt of Texas. And we believe that it needs to go before the people to vote on and that you have to stand up to bullies. And I can tell you having been different all my life, I have first hand experience on what bullies do, growing up as a child with a disability in school. And I can tell you from personal experience if you don't find the courage to stand up to bullies, they sort

of smell blood in the water. And it won't stop. It will be this issue this time. And another issue next time. And it won't quit until people with deep pockets are able to tell everyone else how we should live and what we should buy and when we're allowed to buy it and how we're allowed to get around town, and so on. It's very simple, don't let people push you around. Know what you're doing is right. Stand up for what you believe in. And it doesn't have to be popular with the big bully in town who has a lot of money to throw around. That's not what you were elected for. So keep your courage. Know what's right, do what's right and let the vote go before the people, let them have their say.  
[Applause].

>> Mayor Adler: Thank you. Is Debra Mcdermott here? And then on deck is Scott Johnson. Scott, if you would come to the next podium. Is Scott here? Okay. Scott? The person after Scott is ed Cardwell.

[6:44:51 PM]

You will be at the next podium.

>> [Inaudible - no mic].

>> Mayor Adler: Not signed up to speak. I see that now, sorry. Dora Smith would be the next speaker at the next podium. Ma'am.

>> Hi. Hello, councilmembers. My name is Debbie Mcdermott. I live at 2210 Enfield and I'm in district 10. I am just like a lot of people, I signed the 65,000 petitions to make sure that we have a secure future for ride-sharing in Austin. I'm asking you to adopt this petition. Not only does this help me financially, but also 10,000 people that work for Lyft and Uber. I myself am a rowing coach for the paraathletics. I work for a non-profit. This is a great way for me to make my income and to make sure that I have the chance to go teach everybody on the water behind us who is adaptive and also gives me the flexibility to have time off and everything like that. It's a really great resource. We've done a lot of great things. We've also had -- I want to let you know that Austin has spoken. These are the rules that we're wanting. We ask you to adopt this petition and so we can move on to the countless other needs and other issues that we need to work on as a city. And also I just wanted to say my athletes really, really enjoy the service. They don't have to rely on parents or family members to take them to practice. They can simply get a Lyft or Uber. Thank you.

>> Mayor Adler: Thank you.

[Applause]. On deck is William Carter. Dora Smith.

>> Am I next?

>> Mayor Adler: You're next. But after you is William Carter. Is he here? You will be at that podium. Sorry. Ma'am.

>> My name is Dora Smith and I live in district 4. Please pardon my middle age eyesight. I have to hold up my thing in order to see it. I'm afraid I'm feeling bullied by the city council, both by the ordinance itself and by the way you spoke on the media the other night about the recall against Ann kitchen.

[6:46:58 PM]

People have the right to be represented by their representatives. I myself once got recalled. I served on a university governing board. I represented a body of students. Something came up. I just could not in good conscience vote the way that I knew my constituents really wanted me to and everybody felt strongly about the issue. I went to my leadership and said look, I just can't in good conscience vote the way you want me to. They talked it over and said we're going to pick someone else. I felt I handled the situation respectfully and in accordance with my democratic values. And pretty realistically. And I was happy with that. I felt democracy worked the way it should have. The -- this is hardly a matter of Ann kitchen and her constituents disagreeing on an issue. It's a matter of Ann kitchen and not only Ann

kitchen, but I believe she's just who got the ball rolling on it and who has pushed it, treating her constituents like children by specifically telling people who we can ride in cars with and on what terms. It seems that Ann kitchen, the mayor and most of the city council were genuinely startled by the recall effort because they believe that we should know our place and keep to it and they really thought we would do that. The city council needs to get it. We're your constituents, we're not your children and we're not your medieval serfs. And a recall is democracy in action. It's what we do when an official does not respond to his or her constituents. I don't represent Uber or Lyft, I represent myself. It's unfortunately not surprising that the Austin city council felt that an entire city full of people not competent to choose their own rides also aren't capable of thinking for ourselves. Some sinister other figure must be controlling our minds or simply paying us. If thousands of Ann kitchen's constituents petitioned to recall her that was other people who came in and did that.

[6:49:05 PM]

For myself I could make several points, but I'm especially sick of spending entire nights in hospital emergency room lobbies after one of my late evening visits with bronchitis and asthma because I don't have 15 or \$20 to take a cab three miles home. That's ridiculous and I need alternatives. Its whole city needs alternatives. There are large Numbers of people who couldn't even find jobs before ride-sharing because people making eight or \$10 an hour can't spend \$50 to get to or from work. And under varied circumstances where that's their alternative.

[Buzzer sounds]

>> Mayor Adler: Thank you very much.

>> Thank you.

>> Mayor Adler: Mr. Carter? Is Joseph iley here? Is Joseph here? You will be up next. Mr. Carter.

>> Billy Carter. I was here last week and back again to just try to get the point across again if I could. And a couple of things, I went back and was watching the testimony from last week and a couple of things that I just can't get my head around, it was comparing the tnc model to the other transportation services such as taxis, shuttles, black cars and limos and it was stated by a couple of councilmembers that you just can't -- it's not comparing apples to apples. This is two different things. You can't regulate them the same. They're not the same thing. So the tnc gets a request from a passenger, waiting to be picked up. They want to go somewhere. The tnc goes and picks them up and they take them somewhere and they drop them off and they charge them a fee. Take the word tnc and insert airport shuttle. Insert taxi. Insert black car. We all do the same thing.

[6:51:06 PM]

There's -- I don't understand how we can debate an issue that these two -- these can't be regulated the same. There's absolutely no difference between those. It is apples to apples. It was also brought up that government has no responsibility to protect businesses M examples were given such as blockbuster was getting put out of business by Netflix, should government have saved blockbuster? Well, what if the government was regulating blockbuster at that time and they said, you can only rent movies in person? Right there on demand. If you're going to stream a movie, you're going to have to ask your customers to wait 30 minutes before they can stream it. And by the way, you will have to charge them \$50. They were using a really cool app and everybody loved it and they charged whatever they wanted. But the government still told blockbuster, no, you can only sell because you have a store, you always have operated under these rules and you can only sell these to people when they walk up on demand, and if you want to stream movies, you have to wait 30 minutes. Then you would have a good example. Those industries weren't regulated by the government to start with. Okay? So those are just a couple of things

that, you know, I would love to sort of debate that and sit down with you guys. Again, as I told you last week none of the transportation companies are afraid of competition. We just want to compete and we think that the citizens and the visitors to Austin should have choices for transportation. Let us compete on a level playing field. Admit that all for-hire transportation companies are just that, for-hire transportation companies, and we should all be operating under the same rules and regulations. [Buzzer sounds] I'd love to visit with all of you in your office and go over any of that that you would like me to expound on.

[6:53:12 PM]

And I'd love to hear from you how that makes any sense.

>> Mayor Adler: I would like to visit with you in the office. So if you could do that. I'll tell you one of the things I'm wrestling with, I am not wrestling with the concept that there should be a level playing field because I think there should be. And I don't think that anybody should be regulated into a position where they can't be competitive in the market they work in. What I'm having trouble in is where do we level to? We know from our public safety people that they say that fingerprinting is a safer element to put into augment a background check with because it has a bio metric link and it helps them with identification. We also know people feel safer with Uber and Lyft and perhaps because when you send in those cars you can send an email out to five people and they know where you are and where you're going and they know what time you get there. So should we require taxis and --

>> I think the --

>> Shuttles to do that?

>> The safety part is -- if we were operating under just -- you just said -- I would still fingerprint all of my drivers.

>> Mayor Adler: My question is if we thought that one of the components that made for a safer ride was the ability to be able to email out to five people where you were and where you wanted to go, should we require that of you and your drivers? That would level it out. Then everybody would be doing the same thing.

>> Sure.

>> Mayor Adler: And that's my issue, what I'm kind of wrestling with. Whatever we do this week, next week, whatever happens, you have my pledge that I want to continue working to make sure that we true up the system so that nobody is at a competitive disadvantage to somebody that they're competing with because of a government regulation.

[6:55:21 PM]

>> I agree with that. And you know, I know there's a lot of experience in this room in the transportation business and with city politics, and for 15 years I've been coming up here and talking about regulations and ordinances and so forth. So it's kind of -- I've been there. I know -- I don't necessarily know why all these ordinances were put in place, but I've been living with them for 15 years.

>> Mayor Adler: Thank you. Anybody else have anything? Ms. Kitchen.

>> Kitchen: One of the biggest disparities and regulations if I'm correct about this, has to do with -- from a financial standpoint. Is that right? I mean -- do you have a minimum fare?

>> There's a minimum fare for black car service. There's a minimum fare of \$55. I also told that to councilmember troxclair. You want to take a car to dinner, black car service, and I have one across the street, it's available, I'm not soliciting, you want to go, and I have to wait 30 minutes for you to get in the car. You can't get in there for 30 minutes. Or we're in violation. And I have to charge you \$55 even if we're just going three blocks. I have to. Even if I could do it for 20, I've got to charge you \$55 and you

can't get in there for 30 minutes. So again, you know, there is probably somebody had a reason for starting all these rules and regulations, but now we're at a competitive disadvantage because Uber is operating a black car service. It's Uber select. And they're operating it on demand just the way we could operate our black car service if we wanted to.

[6:57:22 PM]

We have an app.

>> Mayor Adler: I think we need to true that up.

>> Kitchen: Thank you. And thank you. I believe you've sent us a list of those kinds of things and we will follow up.

>> Thank you. I appreciate it.

>> Mayor Adler: Tatania -- I'm sorry, Mr. Zimmerman.

>> Zimmerman: Ms. Troxclair first.

>> Troxclair: I really appreciate you bringing those things to our attention. I think that you make some really good points about how -- what we've done so far does in no way, quote unquote, level the playing field and how there is a lot of improvements that could be made towards decreasing the regulations you have on your business in order to give you more freedom to provide the kind of service that you want to provide. And I guess I just wanted to say so I hope we can continue to work on that and it sounds like councilmember kitchen is interested in pursuing some of those things. So I hope we can all be on the same page there. To your example on blockbuster and Netflix, you're right, the government wasn't regulating blockbuster in the same way that we're regulating taxis. But in that example I don't think that the average person would have said hey, Netflix, if blockbuster was regulated in the way that you describe, if you had to come and rent a movie in person, if you had to pay, what else did you say?

>> \$50.

>> Troxclair: \$50 to rent a video. So if all those things were true of blockbuster, like they are true to your business, I don't think the average person would say, hey, Netflix, that makes sense for you to do too. Why don't you pay \$50. You're paying a really cool service and it's on demand and much cheaper, but we think you should pay \$50 too. I think the knee jerk reaction or the thoughtful reaction would be to level the playing field in the opposite way and to say blockbuster, I'm so sorry we set up your business this way.

[6:59:27 PM]

This doesn't make sense. You should be able to compete in the free market with your competitors. And not require the 50 -- so I -- I think that

>> I think your example proves the point I've been trying to make all along a race to overregulate or a race to see how we can have the highest regulations on every business in the city possible doesn't do good service for you, good service for us, good service to your customers.

>> Councilmember, when this ordinance was passed, there was an amendment by then councilmember tovo on this ordinance that tncs operate under now that said we see that there's disparity, we see that this is not a level playing field because it -- our -- that council session went on until midnight that night. And we -- everybody agreed. I think that was a unanimous decision to -- on the friendly amendment that we needed to sit down immediately after that with all the stakeholders and find out a way to level this playing field and make it fair for everyone. We were never contacted. We never had that stakeholder group. So --

>> Troxclair: I mean, would you agree that the leveling of the playing field that has happened so far isn't necessarily in the direction that you would have recommended or preferred?

>> I've been at council for years questioning the -- the more restriction that's were put on our industry. So --

>> Troxclair: Thank you.

>> Kitchen: Mr. Mayor? Go ahead.

>> Zimmerman: Let me just say quickly, I serve on the mobility committee. I think we took up the taxi franchise discussion, right, last summer and kind of started with that, and I saw this coming. And I said from day one, we -- my preference is to liberal liesize or did he regulate, set you guys loose to set your business model.

[7:01:35 PM]

I didn't get anywhere. I tried.

>> You said no fees to us too.

>> Zimmerman: . I said let's deregulate, you know your business, your customers pay you. I don't want to get between and your customers. I don't know what it takes for your customers to feel safe. I have no idea. But you would know and your customers know so I want to leave it up to you. But I didn't get anywhere with that. Then I said if we don't deregulate the existing businesses, the pressure to level the playing field is going to be to impose those restrictions on the tncs, that's exactly where it went. So I'm back to where I was in the very beginning, I want to do everything I can to help your business and get out of the way of you doing business with your customers.

>> I'm here for anybody that would like to meet with me.

>> Kitchen:.

>> Houston: Mr. Mayor, I'm sorry, if you will remind me we were supposed to be narrowly focused on these two issues and we've gotten really broad astray so if you can focus us on the two issues we're supposed to be debating, I would appreciate it.

>> Kitchen: I would agree and this is the last thing I'll say but I feel like because it was suggested that we didn't talk about getting on an even playing field at the transportation -- at the mobility committee, that is not accurate. We focused on public safety. Rather than saying all drivers should not be fingerprinted, we brought forward making every driver fingerprinted. So we may have had a difference of opinion about that but there was a very definite effort to look at what was important for public safety and to look at an equal playing field.

>> Mayor Adler: I'm sorry. The next speaker up is Tatiana blitlini.

>> First I want to commend Ann kitchen, Greek Garza for their work on the mobility committee. Secondly I want to say drinking and driving is a problem in the city of Austin and it should be treated no differently than sexual assault or assault and battery by a perpetrator on somebody.

[7:03:44 PM]

And the thing is we make all drivers that operate in the city do fingerprint background checks, and the reason we do that is that so that we can screen to make sure that felons do not get behind the wheel of a taxi, a pedicab, limo or any other vehicle for hire, and that should include tncs because they are doing the same work that we are doing. It is also statistically proven that a person who gets out of jail is more than 50% likely to commit a crime of the same nature or even worse and yet Uber has claimed themselves that their background checks only go back seven years. To any way sounds like a credit check, not a background check. I'm also disappointed with atx

[indiscernible] Whose purpose is to make streets safer through awareness, would push a petition that would be a false agenda against the city council for approving a 9-2 vote for fingerprint background checks. Okay? A 9-2, that's pretty overwhelming. And yet we have a nonprofit organization that thinks

that seven years is okay. I'm sorry, but if a sexual assault predator comes out of jail after serving ten years of a sentence I don't want to see him behind the wheel of a taxi, I don't want to see him in a pedicab, I don't want to see him in a loom seen or tnc car either -- limousine or tnc car either. Imagine what would happen if we didn't regulate businesses like restaurants or oil company, if an oil company made a spill because we didn't regulate them, they would just say, oh, well, and then they wouldn't fix the problem. If we didn't regulate restaurants for health licenses, people would get food poisoning.

[7:05:52 PM]

What are you going to do then? They're going to say, oh, well, there's no regulations for it. Nothing is going to be done. So my last thing in closing of this is this should go to a vote and I have the confidence in the people of Austin that they are not going to allow a 50, \$60 billion company to come in here and bully their way and make the rules and regulations that this city lives by.

[ Applause ]

>> Mayor Adler: Bob batland is on desk. Please.

>> Hi. Fellow councilmembers, I live on 4600 alma drive in district 3. I'm one of the 65,000 austinites that signed this petition to secure a future for ride sharing in Austin, okay? I -- my vote -- my reasons for voting for -- for requesting this is I believe that as a driver and as a passenger, it makes me feel safer to know that there are valid options for people that are less expensive. Austin especially, it is a place where we have a lot of students and, as we all know, students don't really make a lot, you know, to go out, drink and then get a cab back home. And sometimes taking a bus is not exactly the safest option and depending on the time it's not really available. As a driver, I have driven a lot of really extremely drunk people back to their homes in safety. Usually making sure that they actually pass through the gate or, you know, to the doors. I have also helped many people with sometimes even disabilities like blindness or, you know, a physical disability.

[7:08:02 PM]

I've taken people to their rehabs, where, like, I had a passenger once who had suffered a motorcycle accident and he had to go through, you know, rehab for -- it was a rehabilitation program for, I think, he said a year and it can become very costly and taking a bus is not exactly an option for a person in this situation. So I am here today to ask you to adopt this petition, and these are the rules that we want. Thank you so very much.

>> Mayor Adler: Thank you. Is Brandon pace here? Is Brandon pace sneer is Marcus love here? Marcus love? Is David white here? Ah, sorry. You'll be on deck.

>> Mayor, council, my name is date of birth bat explained I'm a member of Austin interfaith. I ask you to vote against the ordinance associated with the petition and put the decision in the hands of the voters. I also ask you to explain the entire content of that ordinance proposal to the voters and to the media and for the media to do the same. I think it is safe to assume that the contents of the ordinance is not yet generally known. I'm not going to talk about fingerprinting. I do wonder if petition signers and other voters know that if this ordinance is adopted, all tncs need only have one customer service representative in Austin no matter how many drivers they support and passengers they serve, that there is no mandated minimums or maximums with regard to dynamic pricing.

[7:10:12 PM]

In the event of a snow emergency or worse, the tnc can continue dynamic pricing unless the governor declares a state of emergency. Vehicle identification requirements are limited to the license plate

number and the description or picture of the vehicle. No logo or tray dress is required. Accessibility is described as a goal. Self-enforced best action -- best effort actions are described, but there's no mandate to have accessible vehicles. I'll quote from the ordinance "If a driver cannot provide a passenger a requested accessible ride, the tnc must identify an alternative transportation arrangement for the passenger." I guess, they just need to tell the requester to call a cab. Another quote, this from the driver section, "Tnc shall establish and enforce policies requiring compliance with the applicable provisions of city code and all agreements by drivers who contact with a tnc." I don't know what that means but it sounds to me like the driver -- the city cannot enforce its own code. A driver supposedly cannot work more than a 12-hour shift over a 24-hour period but there's no enforcement specified and only those hours when the app is turned on count. The tnc must have a zero tolerance policy on the use of drugs and alcohol by drivers. Publish that policy and have a complaint system. However, there are no enforcement provisions.

[ Buzzer sounding ]

>> Drivers cannot give rides to people who do not have access to the app and the ordinance sets the fee the tnc must pay the city.

[7:12:17 PM]

No tnc can negotiate with the city for mutually agreeable changes. Thank you very much.

>> Mayor Adler: Thank you. Hold on a second, Mr. Batland.

>> Mr. Batland, had you finished talking about the provisions of the ordinance?

>> Yeah. Yes, I did.

>> Okay.

>> I'm sure if I studied longer I could have gotten a longer list but that's as far as I got.

>> So you think there's probably more things in there the public needs to know?

>> I do and I really wish that there were -- this discussion about what's really in there and not just have it be a food fight over fingerprinting.

>> Pool: Right. Thank you.

>> Thank you.

>> Mayor Adler: Thank you. Is demitra Lee here? You'll be next. Sir.

>> Good evening, council, mayor, David witty, I am with adapt Texas. The short version is we are against agenda item number 9 and we are for bringing the vote to the public, item number 10. The reason we support item number 10 is not because we support the ordinance as it's written because it's -- it's because we want to have an opportunity for the public to know that there are problems with the ordinance. This -- when it was passed back in November of 2014, the ordinance at that time was designed as a interim ordinance to basically reach a compromise so all parties can agree to move forward until a better ordinance or better provisions and regulations could be described and it was an interim ordinance based on everyone's agreement at the time except of course Uber and Lyft opposed it, mostly, because they oppose every regulation, but it seems odd to me now that the ordinance that they opposed back -- you know, less than a year and a half ago, they're so strongly supportive of now.

[7:14:28 PM]

That's just an odd thing. There were requirements, as the gentleman before me described, for accessible vehicle service. Paragraph 13-2-508 it says that the tncs will set aside a sum equivalent to 10 cents for every ride that shall be used to support the tnc's riders who require Ada accommodations with the goal, as the gentleman before we described, of cancel rides being met with wait times equivalent to those of other tnc rides. If you look in there it says the tncs collect 10 cents to support the tnc riders, not the tnc

organization, not the company. The riders should be getting the funding. I don't know how you're going to set that up. I don't think that's ever been set up. I haven't spoke with Gordon about that 10 cents and how it's been working out but it takes a long time at a dime a ride to collect enough money to buy one wheelchair accessible vehicle, four or five years based on on the few information we could collect from the number of rides that are being provided. It goes -- the regulations go on to say that service animals must be accommodated. If they can't be accommodated, the animal can't be reasonably accommodated the company must identify an alternative arrangement. Well, that's not what the Ada says. The Ada says that they have to comply with accommodations of service animals. Here's a real big problem. Tnc companies are -- should have been and did actually, according to the gentleman from Uber I spoke with last week, reach out to community organizations with Ada compliant vehicles, individuals and community organizations did not come forward and say let me be a driver.

[ Buzzer sounding ] They're busy. So what tnc did is subcontract with la fleur transportation, a national-wide organization who provides medical trips and basically under the regulation they don't have to do that.

[7:16:29 PM]

They just have to try to get a ride -- I'm sorry, I went over. Basically there's so many weak points and the only big success that Uber and Lyft have done is they've put an app button for wheelchair accessible service requests and that has worked. The people I've spoken with getting rides from Uber and Lyft say that they do arrive in ten, 15 minutes, they're very happy and successful with the equivalency services being met but none of those equivalency service abilities are described in the regulations that would go into effect.

>> Mayor Adler: Thank you.

>> This could be a giant step backwards.

>> Speaker1: Thank you.

>> Thank you.

>> Mayor Adler: Ma'am --

[ applause ]

>> Mayor Adler: Also, Brian standard. Is Brian standard here? You'll be up next. Hello.

>> Hello, councilmembers. My name is demitra Lee and I reside in district 1. I am one of the 65,000 austinites that signed the petition to keep ride sharing in Austin. The reason being, it does provide a great economical opportunity for the drivers and on the other side, for everyone else, it's a safe mode of transportation. My reasons being, like, for elderly people needing a ride to their doctors' appointments during the day time and they're beyond their driving years and all their loved ones are at work, also, for the people that live in the surrounding areas, like, round Rock, Georgetown, beauty Buda and Kyle, just to name a few, who have no alternative public transportation system. Also, like, for teenagers getting out of school and getting home from their afterschool activities while their parents are still at work, it's also safe for them. So I feel that the platform works and that it is safe and that with all the signatures that we've gotten that Austin has spoken and with that I'm just here today to ask that you do adopt this petition.

[7:18:39 PM]

Thank you.

>> Mayor Adler: Thank you very much.

[ Applause ] Is Linnell Ripley here? You'll thereby. Yes.

>> Thanks for having me, Brian standard from district 8. I've lived in Austin my entire life. One of the few, they call me a unicorn, any passengers, do because I'm a driver with the tncs. And I would be willing to bet I'm the only driver up here that is against that ordinance. The thing is, is it's an issue of safety. If you're not vetting the drivers properly, what it's going to allow is the same cycle of unchecked onboarding that's already happening. I drive during the drunk time, Friday, Saturday nights in the middle of the night. I can tell new the past two or three months, as rides have become less and less common because you have more and more drivers, people are driving more and more recklessly. I cannot tell you how many times I have almost been hit by other tnc drivers. It's really easy to tell who they are. They have their phones mounted on. It's this onboarding. Why would a company be opposed to fingerprint background checks that they don't have to pay for? Because it's going to put a dent in that onboarding. I can if y'all put this to a vote, the citizens of this city, if you -- the few who grew up here, will take the time to look at what exactly it means, what exactly it says. Because it doesn't say much. Look at the insurance requirements that the state put into effect starting February 1. I can tell you that they're not being enforced through the tnc apps.

[7:20:41 PM]

I was never asked to show updated insurance showing it and my old insurance was just fine for it. This new ordinance basically says that the tnc driver will be informed that this is it, but if they don't have it,, oh, whatever, it's cool, keep driving. That's illegal. Take that with the fact that we've got people who know this city less and less, are driving more and more recklessly and are inadequately insured. What happens when someone gets hit and someone dies? I'm -- I've given rides to a lot of people who get in and say I just took -- or I just signed that petition. You know, I hear the Austin city council wants do kick Uber out, Lyft out, whatever. They don't know what they signed, okay? They don't. They can't -- they can't give any substance to what they just put their name and signature on. And when I informed them what exactly it is that they signed, "Oh, well, I had no idea." You can't put it through because they don't know what it is they're opting for.

[ Buzzer sounding ] It's a safety risk. Vote it down. Give it to the people. Let them read it. And let them decide. This is our city. This is my city.

>> Mayor Adler: Thank you.

>> I want to keep us safe.

>> Mayor Adler: Thank you.

[ Applause ] Remind everybody if you speak tonight you don't speak next week. The next speak is Dave Passmore. Please.

>> Lynn Linnell Ripley, district 5, homeowner for five years. I am an individual. I'm not a large corporation. I also use the Lyft app not only to get around to various appointments that I had, that I would not otherwise have access to transportation for because of where I live.

[7:22:42 PM]

We don't have really good public transportation options and there are rarely taxis in our neighborhood but I also drive because I want to be able to help meet that demand that's in my neighborhood for people that need affordable, reliable transportation. As a Lyft driver, I have to keep my insurance updated with the app or I won't be able to use it. They are pretty on it as a business -- you know, company that is overseeing this application being used as -- I'm not able to work over a certain number of hours or it will log me out of -- I've never tried to drive that many hours because Austin traffic has its own charms, but I -- you know, it will log me out of the app. It's impossible for know drive over those hours. I don't know if you're aware, but we have trade dress. It's fairly obvious. We have the glowing

mustaches, there's an emblem mounted on our vehicles. I know some drivers are not want to go show trade dress because of aggressive natures from other industries currently on the street, while they're trying to operate, but we -- it is there, and it is stated in our policies that we agree to operate using that. And I know that as far as all of these demands that are, you know, safety concerns, obvious -- you know, you're not getting into a gypsy cab, we can't take street hills, we can't accept cash, this is all the policies we agreed to when we use this app. We don't get to park in front of hotels, we don't get to park on airport property. We don't have a lot of the same benefits that taxicab companies have so I don't see why we should pay the same regulatory fees. We do not have a lot of these options available to us that - you know, I can't pick somebody up that just waves me down, no matter how much I see that person is wasted and needs a ride home that's going to get them there safely, I can't do that.

[7:24:42 PM]

And I do know that when people do use the app, we do provide safe rides home. We do make sure that they get to where they're going with, you know -- while -- you know, if somebody is too out of it, I'll take them to the er instead of their apartment. I won't leave somebody that's not able to take care of themselves on their own. That's -- you know, and we have a lot of good drivers out there on the road doing the same thing, making sure that the passengers are taken care of. So as an individual that -- as a woman that works overnight feeling that it's safe -- we also have a 24-hour support line that people can call for critical response. I'm not sure if other tncs have this.

[Buzzer sounding] I think that's shotgun that needs to happen for all of the companies across the board, including taxicabs, I'd like see that safety feature put in.

>> Mayor Adler: Thank you.

>> Live tracking, all that you mentioned earlier.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Nick reed. Is nick reed here?

>> Yes.

>> Mayor Adler: You'll be up next at the podium. Ms. Passmore.

>> Good evening, mayor, council, Dave Passmore, really appreciate the opportunity to speak to you once more again. Since last week, it's becoming clearer and clearer to me that there is some confusion with the way information has been gathered, disseminated or what because we're hearing of all the best things the tnc provides in sliced bread. These things are in place at taxi companies for over a year. I'm not speaking on behalf of taxis and I'm quite certain a lot of you know that. It's almost as if we're being too repetitive, we're saying the same things over and over and over, and it doesn't seem as if we are moving forward as we are supposed to be moving forward. Now, I am definitely want to speak to these two items on the agenda, 9 and 10.

[7:26:43 PM]

If the council cannot solve the problem -- and I understand the law and the rules and the city code that says if the citizens bring a petition, the council looks at it, okay? I want the companies to also understand that when there is a decision made on the dais, it's made for the -- in the interests of the general public and for the best of every austinite in Austin. Not for a selected few. Okay? So what I would want the council to do is to make their decision, adopt the people's decision, look at them both and see which is the most common sense decision to make. Because I think we are getting caught up around tncs and what their apps can do. We understand that. The app is wonderful. It works. Yeah. But you cannot deny the general public the opportunity to ride safe. I mean, what is a safe rider.

>> Speaker1: When I pick up a customer in my cab, my job is to transport that person from point A to point B in a safe, professional manner. There's no fees charged for that. Don't tell me about blinds. We've been picking up disabled people. There might have been some problems with the system before. We've been hearing it for a lot -- long time, that has been worked on. Yeah. But to be honest with you, we serve a disabled community, we receive every Austinite in Austin. The problem is there are two ordinances. One that tnc operate that was created by councilmember Rile summary for a lot of us who have been coming here for years, as Mr. Witty pointed out earlier, that was separate from the ground transportation ordinance that taxis and other ground transportation operate under and that's more stringent than what the tnc have.

[7:28:45 PM]

I remember we stayed here and councilmember Reilly said this is a pilot program ordinance, pilot program has ended, guys.

[ Buzzer sounding ]

>> Thank you very much.

>> Mayor Adler: Thank you.

>> Mayor?

>> Mayor Adler: Hold on.

>> Mr. Passmore? Ms. Pool.

>> Pool:.

>> Tovo: Mr. Passmore, I just wanted to be sure I understood where you fell on these two issues. Are you in favor of --

>> Sorry, I didn't say.

>> Tovo: -- Having an election? You probably addressed it and I missed it but I wanted to be really clear.

>> Yeah. I am either for the ordinance going -- I mean, the tnc ordinance going to the ballot, and I'm definitely against 10.

>> Tovo: Thank you very much. I appreciate that.

>> Mayor Adler: David Cortez here? You'll be up here. Sir.

>> Mayor, council, my name is Nick Reed. I am the media coordinator for the Texas libertarian property, a Lyft driver, Uber driver, and I was out there canvassing with them as well. So I'm actually for passing this initiative. I think that it would be great if it goes up to vote. Then I'll get to see what the people think anyway. I can tell you right now if you passed it, it would be representative of the people in the precincts because I've knocked on their doors and I've been in the streets and I've seen it. But, also, some other things that I want to talk about are, you know, I don't know if it's really -- there's always going to be people who are going to say, you know, people have a right to safety and they have a right and in favor of public safety the government should regulate everybody. But I don't think that people really have a right to safety or we can use this as a blanket excuse to put restrictions on companies within the free market.

[7:30:46 PM]

I think that that's really the role of the consumer. I mean, I think that's the rule of the free market, to decide for itself in supply and demand. You know what? If people don't like the way Uber and Lyft operate, they can call a cab. I don't see anything wrong with that. But to put more restrictions on it -- I mean, even in the name of fairness, I mean, really we should be asking the question should we even be regulating the taxi industry? I mean, just the sheer demand here already in Austin for Uber and Lyft should evidence there's already some kind of public preference for the quality of service that can be

provided with less regulation. And, you know, people are going to come and they're gonna -- there's always going to be people who, especially growing up in our educational system, with very hegemonic values and propaganda are going to say I want government to make a decision for me about what is safe and is this driver really safe for me? Can I get in the seminar I want a stamp. I want the government to check him out with fingerprints, whatever, but with the goal of parents, the goal is not to raise children who always are dependent on their parents to know what's right and wrong themselves. The goal is to raise children who grow up and know how to make decisions for themselves of what's right and what's wrong, what's safe and what's not and what's healthy. Really, I don't think this should sway any different. I think that this is the role of the free market and the role of the council, should be to protect the free market and keep the free market free. And, also, you know, there's a number of tools that people can use today. Right now the Lyft and Uber model has a rating system that works perfectly. I mean, without going into a preemptive minority report we should protect everybody from, you know, any prisoner who got out seven years ago --  
[ buzzer sounding ]

[7:32:46 PM]

-- You've got yelp, people can vote with their dollars or choose an alternative if they want.

>> Mayor Adler: Thank you.

>> Sorry, I'm going over.

>> Zimmerman: Very quick question.

>> Councilmember Zimmerman.

>> Zimmerman: So you are it sounds like the face of one of the petition gatherers.

>> Yes.

>> Zimmerman: One of the criticisms I've heard quite extensively and surprisingly is that it's the corporations that are pushing the drive and that people don't know what they're signing.

>> They don't know what they're signing.

>> Zimmerman: I wanted to give you a chance to respond to the accusation that these 65,000 people don't know what they're signing. How would you respond to that?

>> Well, we had the original restrictions on the back of every petition that they signed. Not only that, but they were told that it was to put it up for vote or to pass -- to keep the current restrictions. There was no -- I mean, we didn't say anything else. I mean, it takes five seconds to say that and that's really all we had to say, because, I mean, the public preference for -- like I said, Uber and Lyft is already here. Within a few weeks, 65,000 signatures can be gathered but, I mean, give us a couple more weeks and just -- I mean, you can see where I'm going.

>> Zimmerman: Thank you.

>> If you vote in favor of keeping the current restrictions in this initiative, I think that you'll be safe.

>> Mayor Adler: Ms. Pool?

>> Pool: Mr. Reed, folks have been telling us what neighborhoods they live in. Tell us where you live.

>> I live in Barton springs apartments, which is right at the corner of Lamar and Riverside, basically. Tumi road.

>> Mayor Adler: Okay.

>> Pool: Thank you.

>> Mayor Adler: Thank you. Yes, Ms. Garza.

>> Garza: You mentioned the ordinance was attached to the petition. How many people read that entire petition before they signed it?

>> I would say a fair few.

>> Garza: A fair few.

>> It wasn't whoever sat there and read it. I mean, people were busy, but the two things we told them were that it is an initiative to keep the current regulations or to put it up for vote.

[7:34:53 PM]

>> Garza: Okay, thanks.

>> Mayor Adler: Okay. Thank you very much, sir. Is poco Cortez here? Poco Cortez? Sir.

>> Dave Cortez, 304 montopolis. Single member district 3. Let me lay this down for a minute. Let's talk about the box we're in. Very simply we can accept the terms of an \$18.4 billion corporation, essentially holding a gun to our head to make policy or we can sacrifice our actors as you said, mayor, for bringing any other critical issue on bills, housing affordability, on justice more marginized communities of color, we sacrifice bringing those up via charter amendment for two years because we've got these big boys in town doing what they're doing. Also, we can uphold values of -- also we can uphold our values of a participatory democracy and compromising on policy for the greater benefit of our people. I say put it to a vote. I fully support that. I and others I can assure you will be out and work hard on making sure that our values are reflected in that work. I don't think that what's before you, that the Uber and Lyft coalitions brought forward reflects our values at all. 40,000 to \$50,000 of golden sacks financed money have been pumped into our town not to benefit our people but to benefit multibillion dollar corporation that has no interest in its workers. I will read straight for straight from my friend who is an Uber driver. We don't fully disagree on everything, quote, after drivers collected tens of thousands of signatures for free, Uber lowered rates about 20%, virtually making it unsustainable for drivers if you don't tip.

[7:36:55 PM]

Lyft then lowered rates as well. Uber pool rates are largely less than minimum wage, 85 cents a mile. Uber X is \$1 a mile, cabs are 2.50. Uber X is over 50% less than what it started. As to the petition, I think you would be hard pressed to say it isn't genuine with three times the amount of signatures because of Uber Lyft canvass. I disagree personally. He goes on to say no one is advocating for or protecting the drivers, the ones actually doing the work. Not the council, not the riders, and certainly not the companies that y'all are working for. So to that, my message to you, the council, and to the Uber and Lyft drivers in this room and around the city, all power is derived from us, from the people. Uber/lyft make immense profit off the backs of your labor, your car, your blood and sweat. We deserve better. We can get more from the council and from these billion dollar corporations. So put it to a vote. Let's -- and let's come together for a better future. Let's not let these corporations divide our town like this. We have the potential to really get more out of this thing instead of fighting each other. For this money to be pumped into this effort and ultimately lead to a --

[ buzzer sounding ]

-- Recall of councilmember kitchen is just upsetting to me and it just straightaways disrespects our process and sets a bad precedent. I can go on if anybody has any questions.

>> Mayor Adler: Thank you very much.

>> I have a question.

>> Mayor Adler: I'm sorry.

>> Mr. Cortez --

[ applause ]

>> -- Did you have something more to say?

>> I could say that if I had that money, \$50,000, to push against someone who wasn't supporting some of the work I do on climate change or justice for marginized communities I'd be tempted to lead a recall effort but I wouldn't do that. There would be a chance to do that anywhere in this town. It's bad

for our process. I think we can put this thing out to the public, and I promise to work with you and with the community to make this a better product.

[7:39:01 PM]

I just really hate that we're here and I hope you stand strong and back the people in this effort.

>> Mayor Adler: Ms. Kitchen.

>> Kitchen: Mr. Cortez, I would -- I would invite you to let us know you think we can -- know what you think we can do for the drivers. That is something that is very important to us, to myself and to us as a council. And so any recommendations you might have for us would be appreciated.

>> Thank you, councilmember kitchen. I mean, I think, we're a little bound by our state statutes, if we want to talk about a better quality of life for and safety for riders, let's make them employees. You know, the state legislature doesn't really allow us to do that and the companies definitely don't want that. You know, that's where we're all stuck together here, y'all. We have something in common. I'm happy to help work with the taxi driver co-op that wants to have a living wage and a good app and 100% green fleet, to keep a conversation with everybody on that.

[ Applause ]

>> I'll be there for that conversation absolutely.

>> Mayor Adler: Thank you.

>> Thank you.

>> Mayor Adler: Danny Sands? Poco Cortez and Danny Sands is next.

>> I'm Dave's brother, district three, I'm not as articulate as him.

[ Laughter ]

>> I'm here to support taking the ballot measure to -- to the ballot, let's put a vote on it. I think that's a -- Uber has got a history from San Francisco to New York, everywhere really they've been of subverting city government process. They attacked the mayor in New York but they held strong and required fingerprinting in New York. In San Francisco they're being sued by the district attorney with a class action lawsuit with their drivers trying to be treated as employees, not as contract labor, which is a big difference.

[7:41:04 PM]

There's just all kinds of issues with their unethical business practices and I don't know why Austin, being a Progressive city, would allow them to run -- ride in Austin. As far as the ballot or what people -- the 65,000 signatures, I think a lot of that seems to me is misinformation. People seem to think this is a petition to either -- to ban Uber and Lyft, which it clearly wasn't. The petition was to impose safety regulations, background checks, fingerprinting. Again, the D.A. in San Francisco is heavy on this issue. It's a known fact with law enforcement, with any government agency, that fingerprint background checks are more thorough. You can Google a name with a public search or you can have the department of public safety do a fingerprint check and get more information. I mean, people can lie about their names and -- the real issue is that we're having -- we're putting our public trust in people picking us up. If I had a daughter and somebody is going to pick up my daughter which she gets out, I want a person who has been vetted, not somebody who has an app on their car and a car that qualifies and can go pick her up. That's a big difference and, I think, the council really needs to focus on that, focus on getting the right information out there so people know this isn't to ban Uber and Lyft. It's just to restrict them. We're still paying for the background checks, which I also think is ridiculous. I mean, this is a private, wealthy corporation. They can afford to pay for the background checks of their own drivers. Let's put it to a vote. Let's see what the people of Austin think. There's a lot more than 65,000 people who live here and

there's a lot of people who feel the way my brother and I do, that there's bigger issues and these companies should not be able to run over city government. Thank you.

>> Mayor Adler: Thank you.

[ Applause ]

>> My name is Danny signs and I support putting the measure up for vote.

[7:43:05 PM]

I think that people need to speak up and be heard. And I'm also for access for -- anything that provides transportation should be accessible to people in wheelchairs. Thank you.

>> Mayor Adler: Thank you. Those are --

[ applause ] Those are all the speakers that we have. Thank you very much for coming and for the participation. If there's nothing else on the dais, then we stand --

>> Mayor.

>> Mayor Adler: Come on down.

>> Interior that. I signed up. I didn't want to interrupt you.

>> Mayor Adler: That's okay.

>> When I hear people say --

>> Mayor Adler: What's your name please.

>> Kyle has Haskins, district 9, down the street. I think next time you're stuck in traffic, ask the 75% much drivers alone if they'd be more or less likely to to -- and started carpooling company before cofounding Lyft. I quote, our goal is to completely change transportation. Change traffic and make it possible to get anywhere you want to go without owning a car. He realized why carpooling is so difficult at scale. It needs to be on demand and properly incentivized that means pushing a button to start as you're about to drive, passengers it means getting rides in less than three minutes, whether from someone headed in the same direction, a part-time driver pick up multiple shared drivers or a part-time driver filling a gap. In the next few years the cost of transportation network shared rides will be cheaper than owning a car. In some case it's already is. Regulations that may prevent a driver from participating, whether that be physical barriers such as going to get a background check, or that the average -- against the model for a transportation network that shares the goals of the Austin community.

[7:45:15 PM]

On to safety. What would happen if we attempted to innovate on the question how we reduce assault and sexual assaults in ground transportation rather than how did we get tncs fingerprinted? For example, in a tnc ride passengers select how many seats they need. This and other data provides the capability to algorithmically to match more vulnerable people with drivers deemed more safe by patterns more relevant than having fingerprints on file. Not only that, you can set it up to favor matching vulnerable people in shared rides to create a group to look out for each other when irresponsible friends may have ditched them. This is not apples to apples. Have we seen that yet? Should the incorporate -- December ordinance get founder a vote and somehow win, the opportunity cost of the fingerprint background regulation can be represented by its detriment to the safety of Austin. Firing a couple police officers or investigators, perhaps those dedicated to sexual assaults or drunk driving, destroying a police cruiser, tossing out a couple license plate scanners which could help track down a tnc suspect considering tnc crimes already identified all the driver's info, abolishing an initiative designed to promote safe rides and off-app rides a problem in Austin and nationally. Last but not least make us pay \$50,000 a year for that all that at a one time cost of \$800,000 for the election. I appreciate you to serve

as the city council. It's a tough job I don't think anyone should want and I very much appreciate you being up there.

[ Buzzer sounding ]

>> If I were in your shoes I'd be grateful for the opportunity to shelf this one for two years. We can spend our time and resources on the community rather than politics. I'm open to any questions.

>> Mayor Adler: Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I appreciate those remarks and judging from what we heard I think we probably are on the way to a mini election.

[7:47:22 PM]

My only concern was the cost of the election, which has been described as 500,000 at the low end, 900,000 on the upper end, the cost of conducting the election.

>> Mm-hmm.

>> Zimmerman: You know, but I lost votes this morning of several million dollars of spending so I don't feel that bad about the election costs anymore. But my final remark here is maybe something to say prophetic for the council and the group. I think this new technology is going to threaten the transit industry and hundreds of thousands of people around the country because we -- our bus system is a miserable failure, and this technology has the ability to replace transit, in my opinion, in my technical opinion. And I think that's where we're headed.

>> Zimmerman: Reduce car ownership. You don't see GM coming saying please pass these regulations so we don't transform to that idealistic, if you will, what will become transportation networks. You see them investing in them because they realize they're not going to be able to sell cars to people this they're going to move to cities and realize they don't need it. Those families only need one car. They might just get a van instead of a van and sedan because you don't need that extra car. That's in our shortly lived future -- not shortly, sorry, my poor wording. That's in the foreseeable future, all these people moving to Austin, tell them to not bring their cars, they don't need them. People graduating, staying here, they need cars, kid turning 16 don't need cars. That's our future. We can call them taxi companies all we want, but I think we're missing something.

>> Mayor Adler: Anything else? Ms. Houston.

>> Houston: Thank you, sir. Mayor, if you could tell us where we are now and what the next steps are, that might be clear -- clear up confusion for the people that are watching and for me.

>> Mayor Adler: With respect to our meeting, you can sit down now.

>> Thank you.

[7:49:22 PM]

>> Mayor Adler: With respect to our meeting, we're done tonight. We're not going to take action on these two issues. On Thursday of this week we're required to make the election on whether or not to put the initiative measure on the ballot or whether to adopt it. But that's the binary choice, we have to pick one of those two things. I also think the council will have the opportunity to pass a -- an amendment to or a replacement ordinance to what was passed in December. I would anticipate that we would be considering that on Thursday as well. The following week, a week from Thursday, if we have decided not to adopt the initiative ordinance, then we will be putting that measure on a ballot, probably the may election. Okay? Mr. Zimmerman.

>> Zimmerman: Thank you. One quick point on that, just for public clarification. So by what date are we gonna have to have the ballot language that would go with the vote to put it on the ballot?

>> Mayor Adler: That language would be brought to -- I would think that the first time the council would be considering that would be around the 18th, but so that we could have three meetings in case it takes us three meetings -- or at least two meetings in case there's not more than six votes, we're calling a special meeting for the 17th, I think, and the 18th. The 18th is set. The special meeting on the 17th perhaps so that we make sure that if there's only six votes we can put it on the ballot before the 19th, which is the day it has to happen or maybe the 18th and 19th.

>> Zimmerman: Insofar it's worth I'd like to ask for us to have ballot language in first reading next Thursday.

[7:51:25 PM]

That would be my request.

>> Mayor Adler: My sense is that we may not be able to do that because the ballot language may be determined by what happens on Thursday. So we're probably going to have to see what happens on Thursday before we can draft the ballot language. Okay?

>> I have a question. While I do not support any amendment or change to the December ordinance, I would ask if anybody is going to propose a change or amendment to please post that as soon as possible, as in tomorrow would be good, on the message board. It would be nice to be able to know exactly what is being considered.

>> Mayor Adler: Okay. Anything else? Yes, Ms. Tovo.

>> Tovo: Mayor, just to be clear, I would assume that that would have to be brought forward by individual councilmembers to be posted on our agenda for next Thursday.

>> Mayor Adler: That's correct.

>> Tovo: Okay.

>> Mayor Adler: That's going to have to be posted on the agenda that comes out tomorrow.

>> Tovo: All righty, thanks.

>> Mayor Adler: Anything else? Then our meeting stands adjourned. Thank you.

[Meeting adjourned]